

A Critical Discourse Analysis of Drone Warfare and Drone Norm Life Cycles

By

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Declaration

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Abstract: This study conducts a critical discourse analysis of drones and lethal use of force to probe modes of future wars and contested norms in the international system. The role played by the United States' justificatory norm-contesting policy entrepreneurship of established norms with speech acts aimed at normalisation of drone use is analysed. Normalisation occurring through 'drone war' film genres in cinematography in popular culture is probed. Pushback against normalisation of drones by United Nations Special Rapporteurs and transnational global feminist organisations is assessed. The study concludes raising concerns about future wars, executive-legislative relations and the rise of the drone-based surveillance state that has geopolitical implications.

This PHD is dedicated to all the countless family, friends and loved ones who made it possible and who provided love, support and guidance when it at times seemed impossible to complete it during a global pandemic that often threatened to overwhelm its progression to completion in early 2020.

It would never have been possible to complete without the profound dedication, support and sheer intellectual craftsmanship of my supervisor, Prof. Amanda Gouws, whose love for politics runs as deep as my own and whose kind guiding hand at times proved invaluable when mine would falter.

Words cannot sufficiently express my gratitude. Nor can an entire grove of pomegranates!

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To my husband Lucio, whose entrepreneurial spirit is his core trait, I am grateful for his forbearance with what may at times have appeared to be an utterly arcane activity. To our grandson, Oscar, who was born during the time of writing, I hope you find it one day!

I would also like to thank the countless people I encountered over the years who shaped my consciousness at UJ, the LSE, Yale and Harvard, and who had a hand in shaping the mind that sought to apply itself to the questions that unfold in this analysis.

In a world that shows glimpses of a posthuman future, we all need to think deeply about our humanity in profound and challenging ways. This research has forced me to do so. I hope this makes a small contribution to such contemplation by a much broader audience.

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Chapter 1

Introduction – Exploring Drone Discourses Through the Lens of Constructivist Theory and Norm Life Cycles

Drones have been a part of military life, war and the quest for peace and public discourse, at least since World War II. They were famously used in aerial surveillance during World War II and during the Balkan conflict in the early 1990s. They have slowly transitioned from surveillance to weapon-carrying capability and the targeted killing for which they became somewhat notorious during the largely bipartisan ‘forever war’ of the United States, which hallmarked the post-9/11 global arena.

This ‘forever war’ was hallmarked by various National Security Strategies adopted during the Bush and Obama eras that created new norms of military pre-emption. These new norms were first released by the Bush administration in 2002 and were reinforced with different nuances during the Obama era from 2008. Essentially, the new norm was the consequence of a far-reaching War Powers resolution passed by the US Congress in the wake of 9/11 (AUMF, 2002). This wide-ranging resolution significantly bolstered the extent of executive purview over foreign policy that the office of the President of the United States already enjoys constitutionally and by way of legal precedents. Circumstances post-9/11 birthed the emergence of a new norm of unilateral military pre-emption steered by the executive level of government. There are significant path-dependencies between the Bush and Obama Presidencies in terms of policy and targeted killing.

Drones, or their somewhat less ominous and more value-neutral name, viz. unmanned aerial vehicles (UAVs), require closer academic scrutiny. Equally important, they require greater public policy transparency at both the executive and legislative levels of policymaking and in the rhetorical and argumentative devices, discursive practices and techniques used to justify and advocate their use in social practice and social contexts, to paraphrase Fairclough (1993).

Studies that seek to probe evolving norms on drones and their use in interdisciplinary terms, drawing on greater methodological variation, will therefore be of great significance. This study constitutes an effort at expanding exploratory work in this regard by using critical discourse analysis to explore norm life cycles (norm emergence, norm cascades, norm internationalisation or norm contestation) on drone use.

We see an emerging scholarship, cited below, focused on analysing different aspects of discourses on drones. These critical discourse studies have explored these discursive practices, highlighting drones in different ways by exploring different semiotic forms. For example, one study focused on Imran Khan’s anti-drone march to Waziristan (Sajjad, 2013).

Another explored the 'boring' visual rhetoric of United States drone imagery amidst 'light' war by exploring how photographs of drones often show them as static or parked on airfields without focusing on their weapon systems, thereby making them appear less menacing (Ohl, 2015). Others have opted to look at ideational frames and the origin of the United States' counterterrorism approach during the Clinton era (Tsui, 2015). Another focused on the legal side of the debate and the human rights narratives and legal and normative gaps that exist between these and the United States' drone policies (Brunstetter & Jimenez-Bacardi, 2015). These varied analytical vantage points on drone discourses are relevant antecedent building blocks for this study.

What is of core interest to this study, drawing on the work of Finnemore and Sikkink (1998), is to ascertain at what stage of the life cycle of norms these discourses suggest we may be in the use of drones: norm emergence, norm cascade or norm internalisation. The study proceeds to use the work of Stimmer (2019) to go a step further to show that drones and norm setting on drone usage may be at a stage of norm contestation or, following Iommi (2020), justificatory norm contestation, which lies beyond norm internalisation and presages an alternative end in the norm life-cycle process shown by Finnemore and Sikkink (1998). This phenomenon is explored in depth in the subsequent analysis contained in the body of the dissertation, which explores the tensions that exist between norm internalisation and norm contestation.

This study uses the work of Fairclough (1993) and seeks to analyse language and power in norm-setting and the depiction of drones and drone usage across different semiotic forms. This is achieved by probing speeches, official national and multilateral policy documents, the representation of 'bad' and 'good' drones in cinematography and the actions of transnational feminist organisation focused on disarmament. The analysis of discursive practices and context is done to try to ascertain what new norms are being set on the presence of drones and their use in our lives today.

The study uses the methodology of a critical discourse study to highlight what different semiotic forms, including film, may show us about the norm life cycle trendline on drone norms in the international community. This is important, as these norm life-cycle trendlines on drones and drone usage have deep implications for international peace and stability in the 21st century. Following the work of Stimmer (2019) and Iommi (2020), the study seeks to show how there are options beyond the internalisation of new norms on drone usage or unilateral pre-emptive uses of drones in global affairs. The idea of norm contestation not being a binary option in relation to norm acceptance and norm internationalisation is explored further.

Following Stimmer (2019:270), an argument is made that one can also view norm contestation as “never-ending debate and as an avenue towards agreement”.

This thesis is therefore focused on probing the norm-setting process on drones in the international community by scanning discursive practices across lead policy-setting states such as the United States, international organisations in the shape of the United Nations, popular culture in the emergence of a new ‘drone film’ genre and ‘truth-telling’ documentaries in cinematography, and the activities of feminist transnational organisations in the realm of disarmament.

The study seeks to provide greater understanding of the role that discourse and language and power play, through varied semiotic forms, in the life cycle of norms in the international community as far as the use of drones is concerned. Each section of the study seeks to show how specific discourses of ‘bad’ or ‘good’ drone narratives feed into or create either norm impasses or norm clarifications, following the work of Stimmer (2019). This, in turn, feeds either deeper norm contestation (Stimmer, 2019) or norm internalisation (Finnemore & Sikkink, 1998). The study seeks to problematise this binary distinction, as will be seen in the chapters that follow, and leverages an analysis of discourse to achieve this objective. By doing so, the study hopes to build on an existing body of research that seeks to use critical discourse analysis methods and the focus on discursive practices to explore theoretical questions in international relations. In this case, we analyse the life cycle of norms on drones and their use in the international community.

The study will show how a clear analysis of the use of language and power plays an active role in the normative process of value construction and norm-setting in the international community as far as drones are concerned. As critical discourse analysis is one of the most effective research tools with which to analyse discursive power relations, it is ideally suited to help us grapple with how such discursive power is used in norm setting on drones and in the life cycle of such new norms. As far as drones are concerned, this study seeks to make the connections among discourse practices, social practices and social structures far clearer and more transparent. We do so by looking at specific semiotic forms of discursive practices in varied contexts that touch on the level of the nation state, the level of popular culture, and the international level in international organisations and a specific set of feminist transnational activist civil society organisations active in issues of drones and disarmament.

With this crucial framework on norm life cycles and tensions between norm internationalisation and norm contestation as possible outcomes in mind, we now turn to the core research question of this thesis:

Core research question and ancillary research questions:

The core research question in this study is a critical discourse analysis of discourses on the use of force and targeted killing using lethal drones to ascertain what the implications are of the manner in which the world ‘talks’ about these issues and what its implications may be for international norms.

This study therefore asks:

1. To what extent are new norms on drone usage constituted through norm entrepreneurship in speech acts, popular culture, international organisations and activist feminist civil society organisations?
2. What do these different semiotic forms of critical discourse analysis suggest about the life cycle of new norms on drone usage and whether such new norms are emerging, cascading, internalising or being contested in war and peace in the 21st century?
3. What do these norms suggest about democratic deficits in public policy processes aimed at regulating drone usage in the 21st century?

The research objectives of this study therefore are:

- To see how speech acts, texts, popular culture and awareness-raising activities of activist feminist civil society organisations use different semiotic forms to shape drone discourses and norms, and
- To ascertain whether new norms on drones and drone usage are emerging, cascading, internalising or being contested.

As has been stated, the core research question in this study is a critical discourse analysis of discourses on targeted killing and drone use in order to establish how the world talks about drones, the use of force and targeted killing and how these are being normalised, what this may represent, and its implications more broadly geopolitically and geostrategically.

The novel aspect of this study lies in its efforts to focus on how the representation in film of the use of force with drones and surveillance technologies has served to normalise targeted killing (or ‘manhunts’). This study raises concerns about what such normalisation may presage. A further novel aspect of this research focuses on the role of transnational feminist organisations in launching a considerable pushback against such normalisation of the new use of force norms leveraging drones for targeted killing. This is a much broader disarmament-mobilisation effort aimed at ensuring that the human species does not merely sleepwalk into a profound change in the very nature of war.

If the world were to sleepwalk into such a post-Clausewitzian conceptualisation of war, where all normal civilian controls over the use of force norms were to give way in the face of new

technologies, there would be severe implications for a world in which there is a distinct rise in right-wing populist forms of government and governance. The risks are severe and the potential consequences grave.

What the world confronts is the possibility of a world of 'enslaved humans' (wielding 'unmanned weapon systems') and 'cyborgs' (a human-machine interface) in which complicit mass voyeurism of the new phenomenon through film and cinematography makes us all complicit in accepting hyper-dangerous new modes of war. As human species, such new ways of war could endanger our very survival. In this sense, we are actively participating in the construction of a new mode of warfare and a new reality through words and images that could move us all closer to a post-human future. The road for this is effectively being paved by the rise of the drone-enabled surveillance state.

In this regard it is important to emphasise that the chapter of the study that deals with the presentation of drones in film serves the analytical purpose of showing how such visual discourse and voyeuristic participation make viewers of such drone film genres less sensitive to and less critical of the presence of this new human-machine-combination species on our new path to the wars of the future. This is significant, as cinematography is playing a role in conditioning us to accept the surveillance state and its technological weapons, whilst global transnational feminist organisations are trying to push back and stop us from unconsciously accepting a new, lethal, autonomous weapons-based future. This forms one of the core foci of this study. It also probes closely how specific policy speeches in the United States context on drone policies have served to normalise practices of targeted killing, and notes a great resistance to such normalisation efforts by key Special Rapporteurs on behalf of the United Nations Human Rights Council.

As such, drones or unmanned aerial vehicles (UAVs) are 'objects' of study that stretch across many disciplinary fields: from military ethics to sociology, from political science to UN studies; from international relations to international human rights and humanitarian law; from theories of war to Kant and perpetual peace and philosophy; from media studies and discourse analysis to engineering and religious studies, and the centuries-old just war tradition.

It therefore is of critical importance to stick to one's 'disciplinary knitting', as it were, whilst demonstrating dexterity in seeking cross-disciplinary areas of academic inquiry. This study locates itself squarely within the international relations discipline and within it in a constructivist strand of the discipline.

The epochal doctrinal clash between 'realists' and 'idealists', of which constructivism is a core evolution, is one of the defining clashes in the discipline of international relations of which this study had to take cognisance. It deals with theoretical concepts, crucially the life cycle of

norms, that are associated with the constructivist turn. Whilst it would be simple to construct a realist study on drone discourses and state-centric conceptions of power only, the greater complexity allowed by a constructivist analytical bent is preferable. It allows the researcher to look far more critically at the interconnected and interrelated actions and ‘speech acts’ of various players in seeking to dissect drone and UAV discourses in an era of Network-Centric Warfare, in which state sovereignty is far less secure. The constructivist analytical slant also allows the researcher far greater flexibility in engaging with questions of ideology and power, as it draws on traditions of critical theory and poststructuralism and, to an extent, Marxist analysis of power. This fits snugly within a methodology that uses critical discourse analysis.

The study uses ideas of ‘agential constructivism’ (Grant, 2018) to begin to seek to explain change in world politics as far as new and newly emerging precedents or norms of war and peace and drone usage are concerned. This is particularly important as notions of unilateral military pre-emption are becoming far more prevalent and are at the forefront of key challenges confronted by the international community and the United Nations. This is true at every level of the institution, including disarmament, which has a bearing on drone discourses.

By definition, ‘drones’ or ‘UAVs’ are complex and controversial to study, as they currently are the subject of, arguably, one of the most significant covert wars in global history and the subject of possible new waves of arms proliferation, requiring reinvigorated and new arms-control regimes. These are required to constrain and control their use at the very time when the global disarmament edifice appears to be under threat of potential disintegration, or at the bare minimum dilution. A study that seeks to approach drones and drone discourses analytically must have both clear objectives at the outset, as well as a clear understanding of its limitations and research limitations.

The core research question that this study seeks to address, as cited above, is to ask what drone discourses and discourses about UAVs signify in terms of norm setting. The core research question is explored by focusing on the role of specific ‘policy entrepreneurs’ in international relations institutions and, within the international community, from an ‘agential’ constructivist perspective. Critical discourse analysis is leveraged in each subsequent chapter to look at the extent to which language and power are used to craft normative frames and actions on drone use and to ascertain what this may mean for new norm life cycles.

The research question is focused on a specific period. This period falls between the years 2001 and 2016. The rationale is simply that these are the years of the Bush and Obama presidencies in the United States, when drone use became both more widespread and somewhat more visible. These are periods of path-dependent policies in counterterrorism policies between different presidencies. During the Obama presidency specifically, this was

the case at least in terms of specific policy pronouncements and efforts to lift the veil on drone usage under different National Security Strategies and amidst global events marked by the rubric and ideational frame of the war on terror. At the outset, therefore, it already ought to be clear that these years post-date the 9/11 attacks and are forever shaped by this event, as is the ‘forever war’ or ‘War on Terror’ dynamic that the horrific events unleashed in both human and institutional terms. This is an important and undeniable backdrop to this study, and it moulds and shapes the norm-setting context.

Whilst these years straddle both the Bush and Obama presidencies, the focus will fall largely on the Obama presidential period as it is by far the period when the most deliberate and deliberately visible discourses concerning drones or UAVs can be found. The study leverages critical discourse analysis (CDA) methodologically to focus on various ‘speech acts’, texts and policy memoranda that were released to the public and made drone policy more visible. It also looks at policies and practices released by the United Nations and its Special Rapporteurs and peacekeeping efforts seeking to shape emerging discourses on drones during this period. We take a visual approach by interrogating the role of cinematography in shaping narrative strands of ‘bad’ and ‘good’ drones through the genre of drone films and documentaries at the level of popular culture. The activism of feminist organisations seeking to further disarmament discourses as far as drones are concerned forms an integral part of the analysis of discourses that seek to shape new norms and their life cycle. These different semiotic forms of discourse form the bedrock of analysis in this study, as they all touch on ‘bad’ and ‘good’ drone narrative strands that could indicate different norms being contested.

Given its prominence in this topic, specific attention is paid to how the Obama White House took specific steps towards the end of its term in 2016 to ensure greater transparency as well as legislative scrutiny of drone strikes and executive-level drone-strike decisions. This was done by means of specific Presidential Executive Orders, as we will explore in subsequent chapters. Similarly, the role of the representation of ‘bad’ and ‘good’ drones in both fiction and documentary cinematography that coincided with these periods of policymaking form an important part of this study, as it translated elite-level policy-making to the level of popular culture and enhanced public awareness of drones and drone strikes. Equally, the rise of the ‘good drone’ rhetorical strand and its use in creating awareness of the role drones could play in humanitarian intervention is probed briefly as part of deeper contextual analysis to supplement the work undertaken in the CDA dataset chapters of the study.

Broad executive authority for the use of drones and various covert operations predate President Obama’s arrival in the White House for his first term in 2008. It therefore is important to refer to the preceding Bush years, during which the Executive Orders and antecedents that

created the scope for drone and UAV usage are to be found. This is also where, importantly, the institutional contestations between the CIA and Pentagon originate that are the hallmark of discourses regarding drones to date. These are important facts, as these events effectively created path dependencies in both policy and institutional terms.

Whilst a detailed critical analysis of these deeper levels of institutional contestations between the defence and intelligence establishment in the United States concerning drone usage falls outside the scope of this study, they will be referenced where relevant to the analysis that follows in the study itself. This is simply done to the extent that they may affect the norms that may be set within the international community as far as links between intelligence gathering via drone feed and pre-emptive self-defence norms are concerned.

The main research question of this study is clearly exploratory in nature. Some of the questions that we must answer in aiming to satisfy this research question include the following:

- What role do specific ‘policy entrepreneurs’ play from an ‘agential’ constructivist perspective in drone discourses, norm setting and the crafting of policy regimes applicable to drone and UAV use and/or regulation?
- Do these drone discourses reveal or suggest or confirm any patterns and/or power relations at the international level and, if so, what may these be?
- Do these drone discourses shed any light on executive-legislative interactions in a world contending with a ‘Revolution in Military Affairs’ (RMA) and ‘Network Centric Warfare’ (NCW) and the robotics revolution present in drone usage?

There are some studies that have sought to leverage constructivist theory and critical discourse analysis methods in international relations and security studies. There are not that many studies that have sought to clearly focus on specific policy entrepreneurs and the role they play in driving drone discourses, new norms (at whichever stage of the life cycle) and possible new global policy regimes aimed at controlling drone usage or proliferation through the use of language and discursive practices.

This study is therefore aimed specifically at applying constructivism and norm life cycle analytical work to drones and drone usage and drone proliferation questions that are manifested in discursive practices, social practices and social structures along Fairclough’s three-dimensional model. We use methods that emphasise discursive practice in different semiotic forms by different actors in political life, international institutions and popular culture, and in transnational feminist civil society organisations, and dissect the way such practices drive normative debates and norm setting. Our research interest lies in probing normative strands of ‘bad’ and ‘good’ drones and what this could mean for new norms. These new norms

may be indicative of new trends in norm internalisation, or could show considerable norm contestation. Looking deeper to understand whether certain discursive practices, social practices and social structures further norm internalisation or norm contestation lies at the very heart of this exploratory study. It is hoped that this will be both a contribution to and act as a catalyst for further research in one of the most defining issues of our time.

The main research questions and the ancillary research questions are, as stated, exploratory in nature. This stands in stark contrast to a study that would have sought to attach explanatory power to its conclusions, given that such an explanatory study would require far greater access to information and documents which, by their very nature, may not be available and accessible due to the nature of covert wars. Whilst the 'agential' constructivist perspective may aid us in seeking to explain change at the theoretical level, the limited access to documents that deal directly with specific information on drone strikes on a strike-by-strike basis poses a research hurdle to definitive explanations of change and how drone usage may be reshaping our world. What this study can do, at best, is to aim at exploratory and not explanatory conclusions, which suggest clear areas for further research and greater access to information. This is why it seeks to use methods that look at discursive practices of different actors across political life in a key United Nations member state, within the United Nations itself as a norm-setting international organisation, in popular culture and within a feminist activist segment of transnational civil society.

The essence of the focus of the research question and of the research itself is deductive. It seeks to apply the rich and complex constructivist tradition (specifically its 'agential' variant) in international relations theory to drone discourses. It explores the role of various 'policy entrepreneurs' in crafting possible new norms for the international community. Such an enquiry into norms will also have to seek to identify at what stage of the norm-formation process drone discourses may be situated. The 'agential' variant will be particularly useful, as it draws us beyond norm emergence and norm cascades into debates about norm internalisation and/or norm contestation.

This dissertation's research base is qualitative, and it relies primarily on secondary data for the critical discourse analysis (CDA), which is supplemented by deeper contextual research. As there is no experimental or quantitative component to the research it is largely descriptive in nature, as befits an exploratory and not explanatory study. The study therefore seeks to explore 'who' talks about drones or UAVs, in 'what context' and 'with which objectives' in mind? It seeks to probe what levels of power and/or agenda-setting actions these drone discussants have at their disposal at the nation-state and international and/or institutional level, and what possible norms these 'policy entrepreneurs' are seeking to set in motion through various

speech acts and actions. As such, its methods are informed by CDA and its multimodal variant due to the inclusion of an analysis of film and cinematography at the level of popular culture and drone discourses. It draws on the traditions of Foucault, Derrida and Lacan, but primarily leverages the work of Norman Fairclough and his three-dimensional model at the methodological level.

Given the preponderance of the United States in drone discourses, and the growth in their usage in the War on Terror, it is inevitable that this study will focus on the speech acts of key role players in the United States during a selected period in which the Presidency of the United States under Barack Obama sought to bring a modicum of transparency to the global drone discourse. What we will note is the role of the activities of broader civil society from a constructivist perspective in bringing some of this greater transparency about through activist steps, which included journalistic leaks and litigation. Due to their actions, this period of somewhat greater transparency is related to Afghanistan, Pakistan, Yemen and Somalia and some specific cases of what became known as 'Targeted Killing'. It is an area of study in which the actions of journalists (specifically Jeremy Scahill and his team at *The Intercept*, who released a treasure trove of drone material online) and civil society actors such as the American Civil Liberties Union (ACLU) (which acted as a proactive litigant in bringing to the surface drone discourses about the killing of American citizens with drone strikes) as 'policy entrepreneurs' can be noted and studied.

The United Nations features strongly, from an 'agential' constructivist perspective, as an institutional 'policy entrepreneur' and as a norm setter and/or norm change resister in at least three respects that relate to drone discourses:

Firstly, it has undertaken and does undertake norm-setting work in defining 'human security' and the 'Responsibility to Protect' doctrine That is affected by the rise of digital humanitarians and a 'good drone' narrative strand about using drones and UAVs.

Secondly, the work of the UN Special Rapporteur on Targeted Killing and its seminal reports, which sought to create greater clarity about the use of and consequences of the use of drones and UAVs in areas that fall outside of 'armed conflict', made a contribution to rendering visible the impact drones have had and do have on international law. It made this explicit.

Thirdly, the role of the UN Department of Peacekeeping Operations (DPKO) and its operational innovations for the use of drones in more robust peacekeeping and peace-enforcement mandates is dealt with, albeit briefly, to flag the 'good drone' narrative strand, as it is newly emerging and an evolving part of humanitarian work. We see the extensive use of drones for aerial surveillance in the DRC, and such usage has added significantly to the contestation between the 'bad' versus 'good' drone narrative strand we see emerging post-

2014. We see the same strand of the ‘good’ drone narrative emerging in the immediate use of drones by various UN member states’ in their responses to a COVID-19 pandemic that is still evolving. Such use has ranged from law enforcement to healthcare deliveries in many countries and is an emerging response to pandemic responses globally that will feed the demand for drones.

Civil society and the film industry feature strongly as ‘policy entrepreneurs’ in this study, and the role of various films such as *Dirty Wars*, *National Bird*, *Zero Dark Thirty*, *Good Kill*, *Eye in the Sky*, *Drone*, *the Hurt Locker* and *Unmanned: America’s Drone War* as ‘speech acts’ that fed drone discourses is critically assessed in order to probe whether we are dealing with emerging, cascading, internalised or contested norms at the level of popular culture as far as drones are concerned. These questions equally arise when looking at civil society more broadly, but from a feminist activism perspective the role of Medea Benjamin and Code Pink, as well as the women who led the Campaign to Ban Landmines and who are now heading the Campaign to Ban Killer Robots, is driving discourses about drones and UAVs and AI and Network Centric Warfare more broadly. This forms a crucial part of this study. In this regard, feminist constructivist paradigms are relevant and feature here, as drones and lethal autonomous weapons systems are increasingly in the purview of feminist foreign policy.

So, for example, in the case of Canadian and Swedish international advocacy to curb these weapons systems, these states are expressly tying their disarmament efforts to a feminist foreign policy position. The lobbying of the transnational feminist global disarmament lobby, which historically dates back to the nuclear disarmament lobby, remains an active and actively engaged lobby in the arena of drones and norm-setting debates on drones, as it does in all other disarmament areas including nuclear weapons. In keeping with the constructivist tradition, feminist approaches deeply inform the activism of these civil society actors in drone discourses.

The study brings an interesting dilemma into much sharper focus: does the international community find itself at a potential turning point where a new permissive norm on pre-emptive drone usage is cascading or could even be internalising. Will we see a global community engaged in successive bouts of norm contestation about drones? These are the core and critical issues this study seeks to explore.

This study therefore has the following chapter outline. Chapter one deals with the introduction to the questions that are to be probed in the exploratory study and the details of the specific research questions. Chapter two explores constructivism and the life cycle of norms in order to address the theoretical terrain in which we are probing the emergence of drone norms. In this regard, the study pays attention to the concept of Network Centric Warfare, as this has a

profound impact on the arena in which drone norms are being shaped, and the life cycle of norms following the work of Finnemore and Sikkink (1998), Stimmer (2019) and Iommi (2020) shows challenges to justificatory norm contestation and drone usage. In this regard, the chapter dwells briefly on a literature review of drones and studies on drones. Chapter three lays the methodological groundwork for the study's use of Norman Fairclough's (1989) seminal work on language and power and its three-dimensional model to lay the groundwork for an analysis of specific speech acts – defined as the 'utterance act' that serves a function in communication – in the form of political speeches and official reports that is undertaken in subsequent chapters using identified themes that aid us in exploring discourses on drones and their use, and how this may challenge internalised norms in the international system. In Chapter four we turn to a specific, selected set of speech acts in the form of a set of political and policy speeches made by President Obama and some of his key advisers and officials to a host of policy elites at different university campuses in the United States that sought to explain and legitimate the administration's use of force and its use of drones in order to influence public opinion on drone strikes. We do so using Fairclough's three-dimensional model and the theoretical works on norm life cycles to ascertain what these speeches may show us about the use of justificatory norm contestations to legitimate the use of drone strikes, and the use of force doctrine underpinning such use, and how such practices and rhetorical practices place pressure on existing internalised international law and human rights law.

The analysis in Chapter five moves beyond the level of analysis of elite influencing discourses on drones to probe how this verbal rhetorical strategy of drone legitimisation plays out in the realms of popular culture. By turning our analytical gaze to a newly emerging fiction film genre, the drone war film genre, and to a multimodal element of discourse analysis probing visual rhetoric, we seek to expand our understanding of a host of different subjectivities that may subtly be playing into a form of visual rhetoric that buttresses some of the verbal rhetoric aimed at legitimating drone use as seen in the preceding chapter. We also start analysing the countervailing pressures of voices that seek to resist drone use by 'speaking truth to power' about the impact such weapon systems and their use have on human rights and the lives of those drone strike victims and their families, as captured in documentary films. These documentary films, as the analysis will show, vividly puts visuals of the impact of drones on human rights and international human rights law at the service of efforts to resist the norm regression of existing norms through new use of force and drone strike use. This analysis of the role of documentary film in showing pressures on international norms is a curtain-raiser to the analytical work that follows – on the role of the United Nations in drone discourses and in counteracting elements of drone usage that may set 'bad' new norms, such as the expansion of provisions for the use of force under Article 51 of the UN Charter. Chapter six shows us

how the United Nations has used its own role as a norm-setting entity to resist some core justificatory norm contestations emanating from the use of drones by key member states of the international community, including the United States, which has long been a critical champion of human rights in the international system. It shows us how the United Nations has used the institutional power of specific United Nations Special Rapporteur reports that also function as speech acts to resist some justificatory norm contestations it is concerned could constitute new 'bad' norms that erode long internalised and institutionalised norms that have protected and shielded international peace and security. The chapter uses Fairclough's three-dimensional model once more and subjects the Special Rapporteur reports as speech acts to the same four thematic analytical questions used in Chapter four. This clearly shows the terrain of norm contestation that is at stake in the justificatory norm contestation of the United States for legitimating drone use and the norm regression resistance we see present in the Special Rapporteur reports. What we see is the United Nations, and the international transnational human rights community, inclusive of feminist transnational networks that work at the intersection of the global disarmament and human rights fields, showing great resistance to any norm regression that could put pressure on internalised and institutionalised international human rights law (IHRL) and international humanitarian law (IHL). We also touch, albeit briefly given the newness of the phenomenon, on the use of drones in peacekeeping and peace-enforcement actions, where we see the first emergence of the 'good' drone narrative strand, which is far less evolved than the 'bad' drone narrative strand associated largely with the state practice of targeted killing. This is a narrative strand of which we also see a glimmer in the global response to the COVID-19 pandemic and the use of drones for law enforcement and health responses, which are mentioned briefly in the postscript of this exploratory study, as they form part of the newly emerging 'good' drone narrative and legitimate efforts for drone use in areas different from military policy. To round off the analysis of norm regression resistance, we turn to the drone awareness and disarmament work of feminist transnational organisations such as CODEPINK and the Campaign to Stop Killer Robots (CSKR). These organisation have often worked hand-in-hand with the transnational human rights community and the UN Special Rapporteurs to shed light on the important intersection between disarmament, regulation and the need to protect specific internalised and institutionalised human rights and the use of force norms in the context of evolving new weapons systems such as drones and lethal autonomous weapons systems (LAWS). The study ends by reaching specific conclusions in exploratory terms on drone discourses and emerging drone norms in the life cycle of specific norms, one of which – the internalised norm on the use of force enshrined in Article 51 of the United Nations Charter – is being placed under great pressure by drone strikes and will be placed under ever-greater pressure by the emergence of LAWS, as we shall see.

Chapter 2

Theoretical Framework and Literature Review - Constructivism, Network-Centric Warfare and Drone ‘Norms’

This study leverages constructivist norm life cycle heuristic approaches in international relations and theories of network-centric warfare (NCW) and asymmetric war to construct a complementary theoretical framework. This framework is used to analyse norm-setting processes and norm life cycle dynamics at play in the international community through a critical discourse analysis of discourses about drones. These drones or unmanned aerial vehicles are highly visible new surveillance and weapons systems in war and peace, and increasingly in policing and migration control.

The study draws on the work of first-generation constructivist scholars Finnemore and Sikkink (1998), and their norm life cycle heuristic device, and second-generation constructivist scholars Stimmer (2019) and Iommi (2020), to probe the norm life cycles of drone use in evidence in different discourses in the United States, the United Nations, in popular culture and in feminist transnational civil society. The study analyses and interrogates the norm entrepreneurship of various actors that use discursive practices to influence norm-setting processes in an ‘agential’ manner following the work of Grant (2018). These actors are to be found at the level of states, international organisations, popular culture and within the global transnational civil society network.

The study’s bedrock is an analysis – using critical discourse methods – of norms on drones that are in play in the international community. We probe how the world has engaged in social construction processes in these debates on the narrative strands on the uses of drones to gauge processes of norm setting in the international community through discourses. The study seeks to assess how these norms on drone use have come about in a global context, where ‘network-centric warfare’ and ‘revolutions in military affairs’ and ‘robotic war’ have had a deep effect on social construction processes within many global militaries, and the weapons systems they use and their effect on democratic processes and civil-military relations. We see through our exploratory analytical lenses how this technology is spilling over into other areas of public policy, such as law enforcement and migration control, without much public discussion or discourse, and paving the way for considerable norm contestation on the use of drones in these arenas of civic life and the human rights frameworks applicable to them.

But what is constructivist theory in international relations? What is network-centric warfare? How do these concepts assist in conducting a multimodal critical discourse analysis (CDA) of drones, as this study set out to do to probe norm life cycles relating to drones? Drones are a manifestation of power and arguably of great power politics in the 21st century. As such, they

are of critical importance to students of international politics, geopolitics and domestic and international accountability and executive-legislative relations. Given that drones are part and parcel of specific ideational frames, such as 'preventive war' and 'forever wars', that are part of the overarching ideational frame of the 'war on terror' in the post-9/11 landscape, this study is interested in probing deeper to see whether we are dealing with new norm emergence, norm cascades, norm internalisation or norm contestation regarding the use of drones in the international community and to reach some tentative conclusions in this regard in a rapidly evolving space.

It therefore is important to gradually build our theoretical and conceptual framework, as it uses specific ideational frames that must be analysed carefully throughout this study in order to show the processes of social construction and power dynamics at play in drone discourses, and what such discursive practices may indicate about norms and their life cycle. To study drones and UAVs and the policies, actors and policy regimes that are setting new norms in play within the international community, therefore is of utmost importance to students of international relations. It requires greater exploratory and explanatory study against the backdrop of the possible re-emergence of great power politics in the 21st century.

This exploratory study sought to contribute to an evolving body of work that takes cognisance of the importance of the drone in both war and peace in the 21st century, and the norms that may flow, emerge, cascade, internalise or be contested in this regard. It looks at the various actors who are seeking to contribute to breathing life into norm life cycles through their norm entrepreneurship, leveraging institutional platforms. It dissects these processes by probing how discursive practices are used in institutions, international organisations, within popular culture and within transnational civil society networks. It is incontrovertibly evident that the use of drones or unmanned aerial vehicles is becoming ubiquitous in both the public and private domain, and that there is a rich vein of discursive practices to trace emerging norm life cycles.

In the public domain, drones have been associated mostly with military usage and with airstrike-related surveillance and targeted killing in the broader context of the global War on Terror. It is also in the public domain and body politic where their growing usage in policing and migration control is increasingly evident, as is their use in humanitarian assistance and crisis management. This has often contributed to a 'bad' versus 'good' drone discourse, with the explicit introduction of narratives around 'good drones' – as will be explored in the literature review below. This emotive language has clear implications for processes of norm-setting, as we shall explore.

In the private domain, the civilian usage of drones or UAVs is ever more visible. They have been used to enhance journalism and cinematography, to conduct surveillance for wildlife

conservation, to ensure energy network and distribution and transmission security, to improve agriculture and agricultural techniques and yields, to deliver blood and other healthcare-related services, and in disaster relief and various mapping activities for humanitarian assistance by both the public and private sectors. There is growing research in various disciplines and in interdisciplinary terms as drones pose new questions in a range of academic fields and, crucially for the purposes of this study, on emerging, cascading, internalised or contested norms for drone use.

In the fields of political studies and international relations, there is, as yet, not a significant body of literature on drones, as the fields of international law, international humanitarian law and international human rights law has garnered the bulk of attention, given the pertinent legal issues raised by targeted killing in particular and by covert war. These are all deeply normative discourses, with implications for public international law and some established and/or internalised norms of war and peace and security in the international system. Consequently, this is a key area in which international relations ought to contribute to debates on drone norms by bridging the disciplinary boundaries of international law and international relations. In contrast, the fields of military strategy, military ethics, philosophy, religious studies and terrorism studies are all well represented in the academic literature, but much interdisciplinary work remains lacking here too.

This study makes it clear that for these reasons it is important that international relations pay greater heed to drones and their use, along with the norms and norm life-cycle stages this implies – as this study sought to do. The bulk of the research on drones in political science or international relations has focused on whether drone warfare works as a counter-terrorism strategy, and its applications to law enforcement and migration in the future. This is a rich canvass for researchers to explore.

There are a myriad of deeper questions about the broader applications of drones or UAVs in how we fight wars, the consequences for the broader international community, and the impact in domestic politics itself in terms of transparency, executive-legislative interactions and civil-military relations and democratic accountability. These intellectual and practical considerations often fall by the wayside. This is the exact arena in which scholars must ask probing questions about the norms that are at issue in the rapid adoption of these new technologies and in which questions about norms and norm life-cycle stages in drone usage must be directed, as this carries implications for long-codified precepts, principles and prescripts of international law and the just war tradition.

Drones allow democratically elected leaders to wage wars largely 'invisibly', and this contains significant challenges for any notion of normal democratic accountability or proper civil-military

relations. Furthermore, the crucial requirement of transparency suffers when intelligence agencies effectively wage a covert war. These are indeed some of the crucial questions political scientists should be posing, as new norms are emerging that can feed authoritarian politics, on the one hand, and global drone proliferation on the other. These are some of the norms that may already be in play, and which this study explores. However, before we turn our attention more closely to how war may be changing, and the impact this has on drones and debates on their use and norms, we first have to solidify the theoretical base of this study and pay heed to constructivism and the work of those scholars who have been most active in debates on global norm formation through constructivist lenses. In this context, we have to be mindful of the work of both first-generation constructivist scholars and the crucial work of second-generation constructivist scholars who have sought to address gaps in the norm life-cycle heuristic of earlier scholarships and the ability of constructivists to explain change.

In a review of a set of works on the constructivist turn in international relations, Checkel (1998:325) shows how constructivism sought to expand theoretical discourses by providing a process of interaction between agents and structures: an ontology of mutual constitution.

This is at the very heart of how constructivists question the methodological individualism at the base of neoliberalism and neorealism, and is a crucial reason why it is referred to as a mid-range theory. Checkel points out that constructivists do not reject empirical scientific findings, nor do they reject causal explanations. Their difference from the mainstream theories lies in the ontological and not the epistemological sphere. On the ontological score, constructivists believe that we can know truth from a subjective perspective, and hence intersubjectivity and notions of what is 'collective knowledge' become quite important. In turn, intersubjectivity has structural attributes, and these structural attributes define social reality.

On the epistemological score, constructivists, similarly to post-modernists and post-structuralists, pursue an interpretative approach that embraces the middle position between rationalist and relativist interpretative, and embrace a reality that emerges socially due to the manner in which identities, interests and behaviours of different political actors are socially determined by their shared meanings, their interpretations and the assumptions that they make about the world (Checkel, 1998:324). Given this aspect, constructivism represents a possible bridge between rational choice theories (predicated as they are on individual motivation and utility maximisation) and postmodern theories. Adler (1997:322) reminds us that constructivism is a mid-range theory and its importance lies in its emphasis on the ontological reality of intersubjective knowledge, which carries implications for both epistemology and methodology. For this study on drones, it is important to remind ourselves that, for constructivists, 'norms' are collective or shared understandings that constrain the

conduct of actors or that seek behavioural conformity (Checkel, 1998:328). Facts are facts via social agreement and, from the constructivist viewpoint, 'norms' lie beyond a superstructure on a material base and, in turn, also craft and delineate that very base. As Checkel (1998:328) notes, actors, or agents (the states in the international system) and structures (the global norms) are in constant interaction and are therefore mutually constituted.

This notion of co-creation in the setting of 'norms' is a critical building block of this study on drones and drone discourses. One of the key challenges that constructivists confront, however, is whether they are able to explain crucial international questions and phenomena as a distinctive contribution of the value of this approach, or whether it is somehow stuck in the exploratory space that could limit its value as an analytical tool. Another constraint at issue in contestations between first- and second-generation constructivist scholars is whether they can explain change.

Regardless of whether one is an adherent of first- or second-generation constructivist scholars, constructivism allows us different research methods, such a critical discourse analysis as a middle-range theory that allows us to build a socio-cognitive synthesis by bringing together both the material subjective as well as intersubjective dimensions of our world (Adler, 1997:323). CDA therefore is a significant methodological choice, as it concedes that we cannot deal with material reality without confronting human language, and hence the organisation of discourse really matters a great deal, as does its analysis in a systematic form. In bearing in mind the crucial role of language and its role in structuring norms and behaviour, this study has opted to leverage critical discourse analysis as the method that guides the effort to explore, perhaps explain, how human language (text, verbal or visual semiotics and semiotic devices) has been used to make sense of the entry of the 'material reality' of drones or UAVs into modern war and peace, and what this may mean for norm-setting processes in international relations.

It is in this sense that this study, which proceeds from a constructivist analytical vantage point, finds its association with post-structuralism and post-modernism as it lends itself to using discourse analysis to comprehend international relations. In this regard, Adler (1997:325) emphasises the mid-range theory value of constructivism, as its notions of intersubjectivity add to our analysis. Intersubjectivity lies at the heart of how actors are constrained or empowered to act, as intersubjective meanings have attributes that define the social reality of actors within specific structures. This is where norms and rules and socialisation and institutionalisation becomes critical, as it is the norms and rules (whether expressly codified in treaties or not) that create the 'cause' for or reason to do something or refrain from doing something. It is norms and rules that provide actors with objectives and goals that direct their

actions. This is exactly the arena in which drones and norms applicable to their use and deployment become a core focus area of the study. As we shall see, an very specific rhetorical effort was made to shape how we perceive drones and their use by critical member states of the international community – notably the United States.

This study is largely exploratory in its research focus and seeks to make observations about what text and talk, cinematography and civil society activism suggest about norm-setting on drones. It seeks to argue that a possible emphasis on the ‘agential’ constructivist strand advocated by Grant (2018) could assist in moving the needle a bit from an exploratory constructivist analytical approach towards a more explanatory, not merely exploratory, research stance. It is exactly for these intellectual reasons, drawing on the constructivist mid-range theoretical base, that this study proceeds from the basis of understanding that both cognitive as well as material structures play a role in constituting the identities and interests of actors, whether in the public or private sphere, as far as drones are concerned. A constructivist-focused study of this nature therefore must study both ideas and interests in the construction of social reality, and this study seeks to be mindful of this fact as it dissects discourses that suggest norm life cycles for drones and drone usage.

Adler (1997:332) urges us to avoid confusion generated by conflating constitutive and mediative epistemologies when conducting constructivist research and to try to retain a focus on providing better explanations for social realities. He expands on this to remind us that constructivism can be both critical and problem-solving in a Coxian critical theory sense. The critical part is evident in how constructivism sets itself apart from the existing order to carefully dissect how it came to be, and the problem-solving aspect is evident in taking the world at face value in a specific framework that guides and dictates action. As Adler (1997:334) states, constructivism urges a sociologically sensitive approach to international relations by mixing understanding and explaining. Constructivism staking out the middle ground of theory helps in the building of a socio-cognitive theory of international relations and, for the purposes of this study, of the norms and debates and norm-shaping debates that could cover drone usage and the use of force for centuries to come. As Adler (1997:348) articulates:

Constructivism may hold the key for developing dynamic theories about the transformation of international actors, institutionalized patterns, new political identities and interests and systems of governance. It also establishes new areas of empirical investigation, non-existent for realists, overlooked by liberals and unimportant to psychological approaches, namely, the objective facts of world politics, which are facts only by virtue of human agreement.

Such analytical work embraces an agent-centred view and context, in which state decisionmakers adapt their reasoning and behaviour in direct response to changes in their material environment (Checkel, 1998:329). This study will argue that this is exactly what states are currently engaged in doing by setting new norms on drone usage in both war and peace within the international system of peace and security. In doing so, they may be changing the very system of international peace and security in the process. The study seeks to probe at what stage of the norm life cycle on drone use the international community may be, as evident from its discursive practices in this regard. In Checkel's (1998:330) words, we therefore find ourselves squarely in terrain where "... a constructivist logic of appropriateness is just as plausible a predictor of human and state behaviour as the rationalists' logic of consequences".

One of the core weaknesses and critiques of constructivism has been that it has theoretically neglected the role of agency and that it consequently lacks value as a mid-range theory with explanatory analytical value. This is a gap that is increasingly being filled by a specific strand of constructivism used as a tool in this study on drones, namely the 'agential' constructivism advocated by Grant (2018), which builds on the excellent work of Finnemore and Sikkink (1998) on the role of policy entrepreneurs and the life cycle of norms heuristic device they developed, which is dealt with extensively below.

Checkel's (1998) review flags some of the challenges faced by constructivists. Among these is the fact that most studies tend to probe only ethically good or progressive 'norms', and not possibly problematic or less benign new norms or processes that challenge existing norms. This study on drone discourses seeks to look at whether we are witnessing the emergence of a possible new problematic norm, namely pre-emptive self-defence, in a world of robotic war and lethal autonomous weapons. If so, this could alter the way in which we conceive of the global maintenance of international peace and security under centuries-old UN Charter treaties and the just war tradition. If not, we could also, in fact, be in a profound stage of norm contestation as far as the emergence of new technologies is concerned, as these may be all-pervasive across peace and security, law enforcement and migration and challenge existing policy paradigms and international human rights and humanitarian laws across a very broad spectrum of policy.

A further area flagged by scholars that critique constructivists revolves around defining key terms such as internalisation and institutionalisation. This is particularly important when we engage in a critical discussion and analysis of the life cycle of norms, following Finnemore and Sikkink (1998), to probe whether the pre-emptive self-defence norm, which is pursued by drone deployment and which challenges Article 51 of the UN Charter, is now entrenched or

‘internalised’ or ‘institutionalised’ in the global community of nations. Conversely, we may be interested to see whether it is instead gridlocked in norm contestation.

Given that ontology and theory building have been flagged as core challenges for constructivism, constructivist scholars should focus on bringing agency back in and avoiding the charge that they are simply reducing one unit of analysis (agents) to the other (norms). As Checkel (1998:340) has urged us to do, we need to probe how norms came about, and the role of ‘agency’ in this process and in changing or challenging norms. We therefore must guard meticulously against agency falling through the ontological cracks of constructivist scholarship. This is one of the key reasons for this study’s strong focus on the role of policy entrepreneurs in driving drone discourses in pursuit of norm-setting on drone usage in the international community, and in charting and probing norm life cycles at various levels. It is with this expressly in mind that the study opts to use the strand of ‘agential’ constructivism urged by Grant (2018). It is also why it places a clear focus on the role of agency and power, often expressed in speech acts and rhetoric (as the CDA of discursive practices makes clear), in bringing about new norms or different norm life-cycle stages and, in the case of this study, challenging norms on drone usage within the broader international community. It is the hope of this scholar to address the systematic neglect of agency by focusing expressly on the ‘agential’ constructivism strand of Grant (2018) in this study and by looking closely at the role of policy entrepreneurs, agency and discourse and speech acts in putting new norms in place and in play in a mutually constitutive form.

But what is ‘agential constructivism’? According to Grant (2018:258), ‘agential constructivism’ can be defined as follows:

... a rationalist variant of constructivism that is particularly apposite in providing the conceptual framing for understanding not only how norms influence state (and nonstate) behaviour but also how these actors influence the dynamic transnational norms.

By focusing on agents and ‘agential’ constructivism, we can focus more closely on processes of social construction. For example, if one were to focus on the process of the social construction of drone policy within the United States, one would have to probe the societal level, state institutions and individual decision makers. This would enable the creation of a holistic picture of agency and of what transpired within the country to drive it to challenge existing Article 51 norms with notions of preventive and pre-emptive self-defence notions using the new technology provided by drones in the aftermath of the 9/11 attacks.

Constructivism moves beyond rationalism’s *homo economicus* to a more nuanced *homo sociologicus* to comprehend compliance with norms and appropriate standards.

Constructivism allows us to look at identity, interests and norms as independent variables in studying international relations. In this study on drone discourses, it will become clear how identity, interests and norms are interwoven. Constructivism can also be viewed as an outgrowth of critical theory, as it shows some of its foundational elements. Due to this closeness to critical theory, constructivism can help us grapple with why and how changes occur in cultural and normative structures, or indeed within their institutions. This is possible because it allows us to capture intersubjective meanings and to look for ways in which linkages and feedback are framed between local and global levels and contexts. This study on drones will leverage constructivism and focus on the role of specific policy entrepreneurs. As such, it will draw on the role of strategic agency in norm setting or norm regression and in the challenging of norms through careful rhetorical application.

It follows the work of Jung (2019:4), who focuses on the work and activities of norm entrepreneurs aimed at explaining how activists operate and how they achieve success. This is particularly important in probing the role of transnational feminist networks that have lobbied extensively for global disarmament efforts and specifically for drone proliferation controls. These are looked at in subsequent chapters of this study. These chapters probe different actors that have had an impact on the norm life cycle of drones. In global civil society, these mostly feminist role players are important members of transnational civil society who actively seek to promote new norms in the form of new controls on drone usage, and especially their use in new, pre-emptive self-defence norms that challenge Article 51 of the UN Charter and international human rights and international humanitarian law. In a feminist strand of analysis, we look at the work of these transnational networks, which are structuring their actions in global advocacy terms in addressing disarmament from a feminist perspective. The transnational networks this study is particularly interested in are Code Pink and the Campaign to Ban Killer Robots, which is driven largely by feminists and feminist scholars of foreign policy and disarmament. Whilst the successes of these transnational networks may vary, they are crucial players in policy debates at the regional and international level and do and will impact the life cycle of drone norms.

As first-generation constructivist scholars, the heuristic device of norm life cycles in the work of Finnemore and Sikkink (1998) has looked at the role of international organisations in norm dissemination and the life cycle of norms. These are all crucial components of this systematic study of drones and drone discourses that shape their use in war and peace. Following these authors' work on the conditions under which norms develop, it is worth reminding ourselves that questions of legitimation, prominence, the intrinsic characteristics of the norm itself, as well as materialism, utilitarianism, choice and persuasion, have all played a role in shaping the extent to which new norms on drone use, largely advocated by the United States and

Israel, have been persuasive in the international community and have determined whether such norms are being internalised or institutionalised or whether they remain contested. These questions lie at the heart of this exploratory study.

Similarly, international organisations, notably the United Nations, are key arenas of socialisation on ‘appropriate’ behaviour amongst states themselves. Within these organisations’ language, speech acts, arguments, official documents and negotiation processes on new treaty laws are the core ‘toolbox’ of such processes of socialisation. Scholars who have worked in this area of language, speech acts and argument as mechanisms of social construction share an ontological claim with this study on drone discourses and norms – namely the role played by linguists and rhetorical masters in the construction of reality and power dynamics.

The norm life cycle work of Finnemore and Sikkink (1998), combined with Grant’s (2018) ‘agential’ constructivism focus, creates room to probe the full evolution of the dynamic processes of norm formation. This will be supplemented by the second-generation constructivist work of Stimmer (2019) and Iommi (2020), which seeks to problematise the original norm life cycle work of Finnemore and Sikkink (1998) in order to highlight different outcomes to a linear life cycle that results in an end-stage of internalisation or institutionalisation of norms. Stimmer (2019) places great emphasis on norm contestation, whilst Iommi (2020) does the same but adds another life cycle stage of norm regression as a possible outcome that lies beyond the internalisation or institutionalisation of norms. This work shapes how we seek to probe the life cycle of new norms by analysing discursive practices on drones. We follow the urging of Stimmer (2019) and Iommi (2020) to look deeper analytically to understand the processes of norm contestation and norm regression that lie beyond the initial linear norm life cycle heuristic of first-generation constructivist scholarship.

We therefore can see that, in this study on drones, ‘agential’ constructivism and probing the life cycle of norms of the first and second generations of constructivist scholars will assist us as we focus our analytical lenses on the way state and nonstate actors respond to and work on generating and disseminating new norms within the international system as far as drones are concerned. These analytical lenses, which leverage critical discourse analysis methods, will aid us in focusing on norm dynamics and changes and the role of norm entrepreneurs and anti-preneurs at different levels within the international system.

2.1 Constructivism and Drones: Policy Entrepreneurs and Norm Life Cycles

As first-generation constructivist scholars, Finnemore and Sikkink (1998) point out that the return to more normative concerns in the 1980s heralded the so-called ideational turn. They highlight that this ‘ideational turn’ came in a discipline that had been fundamentally altered by

its exposure to economics and neoliberal ideas and urged us to clarify the distinction between norms and institutions, which are often conflated. A norm is a standard of appropriate behaviour for actors with a specific given identity. Constructivist political scientists refer to 'norms', whilst sociologists refer to 'institutions', but the authors point out that what separates these two concepts is the issue of aggregation. According to Finnemore and Sikkink (1998:891), "the norm definition isolates single standards of behaviour, where institutions emphasise the way in which behavioural rules are structured together and interrelate (a collection of practices and rules)".

There are at least three different kinds of norms: 'regulative norms' (which order and constrain behaviour), 'constitutive norms' (which create new actors, interests or categories of action) and 'evaluative/prescriptive' norms. Neither realists nor constructivists can explain change. In the international systems in which ideas are the lifeblood of the system, shifts and changes in ideas and norms are the main vehicle that can be leveraged to effect transformational systemic changes. According to Finnemore and Sikkink (1998:894), trying to trace shifting norms is the equivalent of tracing changes in the balance of power.

Two of the critical ideas in their work that act as crucial theoretical background tools for this study are the question of the work of norm entrepreneurs and the life cycle of norms; these are explored in more depth below. As first-generation constructivists, they probe closely how norms emerge, through what processes such norms affect and influence the way states behave, and which norms come to matter under what circumstances or conditions. Similar to the work of Richard Thaler and Cass Sunstein (2008) and the antecedents of 'nudge theory',¹ they also look at norms as 'organic' in the sense that they attribute life cycles to them, and these life cycles then range from norm emergence to norm cascades and norm internalisation. They break up the life cycle into these three identifiable stages in order to allow researchers greater focus and an ability to interrogate which social processes and logic of actions may be present at what stage of a norm's 'life cycle'.

¹ This work (Thaler & Sunstein, 2008) highlights that human behaviour can be influenced without coercion, and the ideas that deeply permeate constructivist thought is that norms similarly can be established and influenced in ways that go beyond coercion to constrain or enable the behaviour of states. Nudges are very subtle ways of influencing behaviour, such as, for example, putting fruit at eye level instead of banning junk food. Their work is a subtle reminder of how norms may be made to work in the international community while mindful of the insights of behavioural economics.

Table 1: Stages of norms

Stage 1: Norm emergence	Stage 2: Norm cascade	Stage 3: Internalisation
(Actors) Norm entrepreneurs with organisational platforms	(Actors) States, international organisations, networks	(Actors) Law, professions, bureaucracy
(Motives) Altruism, empathy, ideational, commitment	(Motives) Legitimacy, reputation, esteem	(Motives) Conformity
(Dominant mechanisms) Persuasion	(Dominant mechanisms) Socialisation, institutionalisation, demonstration	(Dominant mechanisms) Habit, institutionalisation

Source: Finnemore and Sikkink (1998:898)

It is in the first stage of the norm's life cycle or emergence where we locate the role of the norm entrepreneur, which has agency and leverages an institutional or organisational platform to aid in the emergence of the norm, as can be seen from the table above. Agents either actively build norms or proactively set out to challenge existing norms. Norm entrepreneurs play a critical role in framing issues, or in what constructivists call 'ideational framing'. They play a role in the emergence of norms, as they put attention on issues or create issues by leveraging language that opts to name and/or interpret or even, in certain cases, to dramatise issues in order to draw attention to them. This is the process that is referred to as 'framing' by theorists of social movements, and the building of cognitive frames plays an important role in norm entrepreneurship. If these frames are successful, they will resonate with a broader body politic and alter the ways of talking about and understanding policy issues or questions. For example, in this study we will see how a post-9/11 United States Presidency set out the Bush Doctrine and paved the way to create an alternative perception of both appropriateness and interest with respect to torture and targeted assassination or 'targeted killing'.

Creating standards of 'appropriateness' is exactly what is at stake in the first stage of a norm's life cycle. From a motivational point of view, these motive forces may embrace empathy, altruism, and ideational commitment. We see this ideational commitment at play as norm contestations of pre-emptive self-defence were actively built in the aftermath of 9/11. This is the arena in which persuasion, and therefore the use of language and discursive practices,

play an important role, given the role played by ideational frames and 'framing' in creating the backdrop for this to occur. We will return to this aspect when we probe the norm entrepreneurship and agential constructivism of the United States' role as a norm entrepreneur in norm usage and norms on drones.

However, this study draws on the work of both first- and second-generation constructivist scholarship when it comes to the work on norm life cycles. We therefore now turn to the work of Stimmer (2019) and Iommi (2020) as they take the norm life cycle work of Finnemore and Sikkink (1998) a few steps further. For the purposes of this study, we need to proceed mindfully of this evolution in constructivist thinking on norm life cycles at the theoretical level in order to cast our analytical net sufficiently widely when determining what may be at play with new norms on drones and drone usage. This we glean from discourses emerging in the international community. Following the work of Stimmer (2019) and Iommi (2020), this study seeks to show how there are options beyond the internalisation of new norms on drone use or unilateral pre-emptive drone usage for self-defence in global affairs. The idea of norm contestation not being a binary option for norm acceptance and norm internalisation is explored by Stimmer (2019). Following Stimmer (2019), an argument is made that one can also view norm contestation as a never-ending debate and as an avenue toward striking agreements of some kind that can incrementally be internalised as agreements emerge. As Stimmer shows, contestation can occur with respect to both norm frames (or justifications) and norm claims (or specific actions). Similarly, different results are possible with respect to norm recognition (i.e. a situation where states agree on norm frames) or norm neglect (i.e. where states share a basic approach to actions they take but not to the norm that is at stake).

What becomes clear is that norm neglect generates more unpredictable outcomes than norm recognition. Because an element of principled commitment is absent in norm neglect, it paves the way for states to simply build justificatory arguments that can signal disagreements about both the frames as well as claims. Such cases are then phenomena of norm impasse and ought to be contrasted with norm clarification. In the case of norm clarification, states can take joint actions that can produce socialisation, which in turn generates the exact norm clarification. In this way we see norm contestation, norm impasse and norm clarification as, in a certain sense, a bridge from which we can take a clear view of how states either opt into compliance mechanisms or protest them.

Norm contestation helps to try to peel back the layers of dialogue between states and to look for emerging areas of norm clarification to try to see whether drone discourses are part of a proverbial never-ending debate, or whether the debates may signal an avenue towards agreement and deeper norm recognition. These processes of norm recognition and norm

clarification could build even stronger norms if they were to cascade and ultimately become internalised, but they are a crucial part of norm life cycles and a critical addition to the work of first-generation constructivist scholars. Given that drones pose significant challenges to the established norms of the United Nations Charter, international human rights law and international humanitarian law, as we shall see, it is crucial to have a proper and complex theoretical backdrop that will assist in exploring what may be emerging in the norm life cycle of drones and drone usage globally.

In a similar vein, the work of Iommi (2020) directly seeks to clarify and expand on the work of Finnemore and Sikkink (1998) by building a different, and perhaps more nuanced, model of the norm life cycle, to which we now turn. Iommi's (2020) work forms a crucial part of the subsequent analysis, in which we seek to consider critically at what life cycle stage of norms on drones selected discourses indicate we may be. For example, we see the justificatory norm contestation the United States is engaging in with the international community that is actively being resisted by the United Nations and key states within it. She focuses on the fact that the internalisation stage of Finnemore and Sikkink's more linear norm life cycle is problematic and seeks to reconceptualise it as the stage that lies at the extreme of the norm cascade, in which "inherently contested norms simultaneously enjoy formal validity, social recognition, and cultural validation" (Iommi, 2020:76). To her, this is the arena in which there is scope to actively contest norms.

Whilst Finnemore and Sikkink focus on habit and institutionalisation as mechanisms of norm internalisation, Iommi opts to show how norms are continuously contested and how what she terms "applicatory contestation under conditions of high contestedness" (Iommi, 2020:76) ought to be part of how we view a more cyclical norm life cycle process. She adds an important caveat to her new model and shows that, whilst Finnemore and Sikkink's model assumes compliance with the internalisation stage, her model, which views internalisation as the extreme end of the norm cascade stage, is primarily engaged with norm validity and not compliance or automatic compliance. This allows for differentiation between the legitimacy of a norm and its actual effect (i.e. compliance). As we see below in Table 2 (Iommi, 2020:86), she critiques Finnemore and Sikkink for conflating norm validity and compliance with it in their norm life cycle heuristic.

Table 2: Modified norms life cycle

Norm emergence	Norm cascade	Dynamic norm internalisation	Norm regression (obsolescence,
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			modification or replacement)
Stage 1	Stage 2	Stage 3	Stage 4

Tipping point

Source: Iommi (2020:78)

Iommi's (2020:78) crucial contribution to moving from first-generation constructivist norm life cycle heuristics to second-generation norm life cycle heuristics is therefore fourfold, as she:

- Shows and builds theory on the role of contestation at the extreme end of the norm life cycle and beyond it,
- Draws a distinction between the actual legitimacy of a norm and its effect in practice (i.e. compliance),
- Seeks to address the question of norm change after internalisation, using contestation as a key concept, and
- Identifies another stage in the norm life cycle, namely that of norm regression.

This is an important contribution to theory building, as it allows us to expand the linear life cycle of Finnemore and Sikkink to reflect the more cyclical life cycle that we can see at play in many norms in the field of international peace and security. This is especially true if we consider how regularly norms in this field are contested and what the consequences of the contestation of norms are. According to Iommi (2020:78), "[c]ontestation after internalisation can reinforce the validity and legitimacy of the internalised norm or it can lead to the loss of the norm's formal validity, social recognition, and/or cultural validation – that is, to norm regression".

This is of salient significance for this study on drones, as the Bush Doctrine and drone usage directly contested the values espoused in Article 51 of the United Nations Charter – a long-established norm, as we shall see in the analysis of this study. What we shall also see, however, is the extent to which the United States' contestation of some of the key norms of international peace and security and human rights norms was challenged and countered by other states, as well as by the United Nations, thereby making it harder, yet not impossible, to weaken these norms. Despite considerable efforts at justificatory contestation by the United States, deploying rhetorical methods to contest key norms, this study will probe how other

actors sought to reinforce them by countering some of these rhetorical efforts with rhetorical responses, drawing attention to norms in existing treaties and international standards.

According to Iommi (2020:89), contestation after internalisation matters: “I must underscore that contestation will continue after internalisation because norms are inherently contested and the contexts in which they operate change. Therefore, contestedness is necessary for internalised norms to retain their legitimacy through stakeholders’ access to validation practices.”

Finnemore and Sikkink’s work on the norm life cycle model is a crucial part of the first generation of constructivist scholarship. The second generation of constructivist scholars has sought to problematise the norm life cycle model of emergence, cascade and internalisation. Iommi (2020) concedes that the norm life cycle model is a required point of reference for all theoretical and empirical scholars who probe norm changes, but seeks to problematise the internalisation stage. Her work seeks to view the internalisation stage as the outer extreme of the norm cascade, where inherently contested norms enjoy proper formal validity, as well as social recognition and cultural validation. In this sense, she focuses more on norm validity, without making any assumptions about the automatic compliance with such norms. Unlike the assumptions about habit and institutionalisation that form the crux of Finnemore and Sikkink’s model and its internalisation stage, Iommi (2020) problematises this by focusing on what she calls ‘applicatory’ and ‘justificatory’ contestations. The former can lead to a norm’s legitimacy being bolstered, whilst the latter can pave the way for norm regression. It is justificatory contestation we see present in the United States’ activism on preventive and pre-emptive self-defence.

This study works within the remit of the second generation of constructivist scholars who have sought to problematise norm life cycles to grapple with the contestation of norms inherent in drone discourses. In another study that problematises the norm internalisation phase of the norm life cycle heuristic of first-generation scholars, Schneiker (2017) studies how NGOs and ‘insider’ and ‘outsider’ networks act as norm translators. She does this to make the crucial point that this process of norm translation is an indispensable ingredient in the norm internalisation phase, as it allows NGOs (norm entrepreneurs in their own right) to contribute to the spreading and translation of norms in transnational advocacy network contexts. NGOs are part and parcel of how new norms must make their way into new institutional thinking as persuasive forces that urge actors to comply. It therefore is enormously important to see norm internalisation at work within NGOs to observe and study how they, in turn, act as translators that aid deeper norm internalisation in institutional terms. For example, in this study we will see how transnational feminist organisations have had deeply internalised disarmament

norms since the period of anti-nuclear advocacy. We focus on the effect this has in shaping discursive practices that see such NGOs ‘translate’ disarmament norms in the context of drones and drone usage. Equally, drone lobbies constitute such norm ‘translators’, advocating for drone proliferation and highlighting how support for and resistance to norms within NGOs can exist simultaneously. We will see in this study how the reasons for norm resistance can also differ at various organisational levels of NGOs in different stages of the life cycle of norms.

In a contribution that bridges international law and international relations, Koh (2005) focuses on internalisation through socialisation and shows how the internalisation of international law into national law occurs through socialisation when domestic legislatures adopt international law positions for domestic law practices, for example. He makes these arguments to show the functionality of international law in building new norms that filter through to state level and vice versa. He shows the importance of the social mechanisms that govern the social influence of law. These microprocesses of social influence deeply affect norm internalisation. Given the role Koh’s own conceptions of norm internalisation plays in discursive practices regarding norms on drones, his is an important academic and intellectual contribution and an antecedent to the work he did at the State Department in the US as its Legal Counsel on drone strikes. This was a time when it became a highly influential norm entrepreneur contesting established norms, as we note in Chapter 4.

As we shall see, the bulk of the norm life cycle of drones, and specifically the notion of contested norms, rests on the tensions that the use of drones has caused in enduring existing norms such as the United Nations Charter (Article 51) and the body of international human rights law and international humanitarian law. These are exactly the norms that are at stake in the discursive practices we analyse in the norm entrepreneurship of United States presidents through what Iommi (2020) calls ‘justificatory’ contestations. These are also the norms at issue in the pushback or countervailing defence of existing norms we see emanating from the United Nations through the work of the Secretary General, UNIDO and various Special Rapporteurs with Human Rights mandates and remits. These are also the essential norms at stake in the enduring legacies of the just war tradition and the UN Capstone Doctrine that undergirds UN peacekeeping, as we shall see. It is within this norm contestation that we will probe how this filters through to popular culture in the shape of the representation of drones (and these norm clashes) in cinematography – both in fiction films and in documentary films. It is also within this norm contestation that we will probe the role of norm translation played by transnational feminist organisations and their disarmament norm translator activism as far as drones and drone usage norms are concerned.

The study therefore sees clearly the two strands of first- and second-generation constructivist theories invoked by Lantis (2017) to shine a light on international norm contestation as far as drones are concerned. The first-generation constructivist theories contend that international norms are both constitutive and regulative – through complex processes of stigma and stigmatisation they can shape the conduct of states and drive international co-operation. The first-generation constructivist scholarship, strongly present in the seminal life cycle work of Finnemore and Sikkink (1998), focuses on this life cycle of international norms and dissects their impact on co-operation in the international community. The new generation of constructivist scholarship, or critical constructivist theory, of which Stimmer (2019) and Iommi (2020) are prime examples, homes in on the potential for contestation and challenge in the creation and development of international norms and their maintenance. It includes the work on regression of norms introduced by Iommi (2020), cited extensively above. This study takes cognisance of both generations of scholars to analytically address and probe the dynamic processes of norm setting at play in the world's use of drones. This is evident in emerging discursive practices that make claims to 'justificatory' contestation and that may therefore be indicative of either norm regression of newly evolving norms that may emerge from contested spaces.

One of the key normative issues at stake in drone discourses, and in the discursive practices we probe on drones, is the question of targeted killing. Großklaus (2017) argues that the world has reframed state-sponsored assassinations, long frowned upon in international law and state practice, and rebranded them as 'targeted killing'. He argues that we need to clearly understand that the way the international community has regulated state-sponsored assassination as a foreign policy 'tool' is deeply connected to state sovereignty and liberal thought, and is a normative amalgam. As we shall see in the various chapters of discourse analysis to follow, these discursive practices and deployment of rhetoric can and have been invoked by different actors (United States presidents and political elites, UN Special Rapporteurs, characters in fictional cinematography and in documentary films, and feminist civil society leaders) to reinterpret, reshape and challenge and contest norms on state-sponsored assassination so that targeted killing can be seen as a more permissible act. This was done in seeking to craft and contest narratives and norms and to incrementally seek to reshape them. Großklaus's (2017) argument helps us to see normative change by connecting meta-norms and single norms to their larger position in the international order. This is exactly what is at issue as far as the new norms of targeted killing and drone strikes to effect targeted killing are concerned, as this study's analysis of discursive practices will show. Such strikes place the established norms of the United Nations Charter (notably Article 51), international human rights law and international humanitarian law at issue in norm contestation terms and,

by doing so, cross international law and international relations disciplinary boundaries in the process.

In a similarly challenging work that is relevant to changes in counterterrorism policy between the Bush and Obama eras, Kutz (2014) probes how norms die by looking at torture and assassination in United States security policy. Kutz (2014) shows the steady death of once seemingly well-internalised and institutionalised norms prohibiting both interrogatory torture and assassination. He shows how the United States' post-2001 defence policies saw these norms crumble, highlighting how the 'end stage' of the Finnemore and Sikkink norm life cycle heuristic is not always guaranteed internalisation and institutionalisation. Showing how the Obama administration in 2009 strongly fought to resuscitate the anti-torture norm, Kutz (2014) highlights that none of the norms that concern the use of force by states can safely be assumed to be cast in stone forever. These are the very themes to which this study on drones and the use of force using new technology will return over and again in the subsequent chapters. The end-state of norm life cycles is not permanent internalisation. In this, Kutz (2014) echoes Stimmer (2019) and Iommi (2020). Norms can be contested and reformed. They can die and be resurrected.

In the life cycle of norms, discursive practices are mission-critical moments that shape normative processes, and the life cycle of norms is often determined by the persuasive power of the use of language. Therefore, this study uses methods focused on CDA to trace norm life cycle moments in the norm-setting process for the use of drones in the international community. In a novel approach that seeks to categorise norm supporter levels of strength – that is also of some relevance to this study – Speiser (2020) uses three distinct categories to classify states that support rising new norms of the responsibility to protect (R2P) doctrine since its emergence at the World Summit in 2005. These are strong supporters, cautious supporters, and rejectionists – much the same as what can be said of state support for drone usage. It is a useful categorisation that shows varied levels of support for emerging or rising new norms, and can be as useful in a study of norms on drones as it is to Speiser's own R2P work. His study shows, for example, how China and Russia are cautious supporters of the R2P norm, but that they also oppose the norm's implementation for conceptual reasons, keeping the norm in gridlock in the United Nations Security Council, which could be critical to creating norm internalisation and institutionalisation. Due to the similarities of drone dynamics, this therefore is a useful study to benchmark due to the similar geopolitical issues and pressures regarding drones, as the gradual analysis in this study will reveal. The study therefore will act as a useful touchstone to help us determine whether drones and their varied uses are stuck at the level of norm cascade due to the similar situation of gridlock, or whether they are moving toward internalisation or, to follow Iommi (2020), relegated to the extreme of

the internalisation stage to represent a norm contestation or a regression. This is what this study seeks to probe by casting its analytical method into the critical discourse analysis space to dissect the use of language and power to shape drone norms.

Hofferbert and Weber (2015) critique first-generation constructivist norm life cycle work for having lost sight of the fact that norms are constantly renegotiated in social interaction (a process in which discursive practices feature prominently). They try to propose a reconceptualisation of the connection between norms and action to create better explanations for normative changes in international relations. Their work focuses strongly on relational and procedural aspects of the norm-setting process and the role of actors and agency within it.

Betts and Orchard (2014) also take issue with first-generation constructivists and their norm life cycle work. For them, internalisation and institutionalisation at the international level are important markers of the emergence of a norm, but they do not view this as an end state, as do these first-generation scholars. According to them, norms remain both imprecise as well as ill-defined after they are institutionalised. They show how some states may indicate the adoption of a norm at the level of the global community, only to breach it due to domestic opposition. Some states merely pay rhetorical lip-service to norm adoption without any deeper plans. In this regard, Di Lellio and Castano (2016) argue that the post-9/11 'asymmetric wars' that we have seen were used to question the relevance of core elements of the edifice of international humanitarian law. This was true for differentiations that are to be drawn between combatants and civilians, and to reverse and challenge accepted norms on torture and assassinations. These cases of state-led norm entrepreneurship, argue Di Lellio and Castano (2016), sought to remake norms and refashion international humanitarian law. As the authors show, however, and as we will explore in this study, the normative power of international humanitarian law (and some key United Nations Special Rapporteurs who took strong positions on norms and showed this power through their brave actions) countermanded some of the state-led norm entrepreneurship, notably of Israel and the United States. Di Lellio and Castano (2016) argue that some of this state-led entrepreneurship managed to bolster the strength of international humanitarian law by generating opposition to their actions. This echoes the work of Iommi (2020) cited above. These are some of the aspects that we will explore when we compare and contrast discursive practices in the United States that dealt with targeted killing and drone use and the work of various UN Special Rapporteurs, who sought to highlight the internalised and institutionalised values of international humanitarian law. As the authors point out, what has happened is that state-led norm entrepreneurship was met with a wall of opposition seeking to protect international humanitarian law. According to Di Lellio and Castano (2016:16), "[w]hile it is certainly true that these states have attempted

to make a case for the necessity and even the legality of torture programmes and targeted killings, it is our opinion that, by and large, they have failed”.

Those opponents include other states, international organisations, transnational NGOs and their networks, as well as domestic constituencies embracing investigative journalism and litigants of various stripes in civil society. They show how international humanitarian law acts as a normative ‘guardrail’ against normative slippage. In dealing with the first and second generations of constructivist scholarship highlighted by Lidner *et al.* (2016), we can see the growing relevance of the work of Stimmer (2019) on norm contestation. We also see the importance of the work of Iommi (2020) on a re-theorised norm life cycle that is cyclical, not linear. This is important, as her work expressly includes another stage of norm regression, and here it is applied to norms on drones, as evident in discursive practices at various levels of society.

But why use constructivism and the different generations of norm life cycle work as the framework in which to ground this analysis and to study drones? There are at least three reasons why the constructivist approach is one of the most promising theoretical frameworks with which to approach an analysis of the rise of drone discourses and to use in this exploratory study to contribute to a body of international relations work on drones or unmanned systems.

Firstly, constructivism is ideally placed to allow an analysis of norm entrepreneurs who set policies and new norms by leveraging the institutional platforms that they have at their disposal. This is particularly so in a context in which the executive authority in the United States, primarily the Presidency as an institution, has played a significant role in global discourses on drones or UAVs. It matters that a core global norm entrepreneur, as is the United Nations as an institution, has done likewise by appointing a UN Special Rapporteur on Targeted Killing and institutionalising drone or UAV usage in its Department of Peacekeeping Operations.

Secondly, through the important work of Finnemore and Sikkink (1998), Stimmer (2019) and Iommi (2020) on the life cycle of norms, this study allows us to use their work to seek to establish at what life stage of norm-setting on drones (and by implication network-centric warfare) the international community finds itself when we look at the various speech acts that are analysed in the study, and what this may signify about cascading norms of drone usage. The life cycle of norms mode of theoretical analysis allows us to explore and ascertain if certain norms applicable to the laws of armed conflict and drone usage have cascaded, and we furthermore can seek to explore whether any civil society actions, such as the Campaign to Stop Killer Robots, is currently mobilising on a global basis to agitate for specific norms from an arms-control perspective. Thirdly, the constructivist approach has spawned further work on

the emergence of policy regimes and allows us to seek to understand what new policy regimes, if any, may be emerging with respect to drone usage, network-centric warfare and the prospective use of lethal autonomous weapons.

In this regard, the work of Garcia (2016) is particularly important, as it addresses possible emerging policy regimes that may be crucial to new arms control discourses as they relate to drones or UAVs, and what have been termed ‘killer robots’ by various human rights organisations. They are equally seeking to establish new policy regimes for the control of drone usage that are mindful of norm contestations of preventive and pre-emptive self-defence. Prior to the globally life-altering events of 9/11, drones were used for surveillance. However, post-9/11 they changed forever when they became weaponised with payload. This is where the pressure points of newly emerging norms started. It is worth pointing out that in terms of both the various waves of what has been termed a Revolution in Military Affairs – which connotes various waves of military modernisation – as well as the War on Terror and its modalities in terms of strategy and tactics and weapons systems, there has been a fair amount of transnational diffusion in the international community and in international organisations. This is of significance in any study on drones or UAVs and network-centric warfare (NCW). However, when we look at the possible emergence of norms and norm diffusion with respect to drones and UAVs, it is the modality of norm emulation that is of the greatest interest with respect to the transnational diffusion of drone or UAV policies and the risk of drone proliferation amidst geostrategic tensions. This is so given the considerable effort the United States as a norm entrepreneur has made to challenge and launch justificatory contestations of the norms of the UN Charter (Article 51) and international human rights and international humanitarian law through its extensive use of drones. Whilst we have seen extensive diffusion of this challenge, we have also seen robust defences of both international human rights law and international humanitarian law. Sikkink (1998) makes an impassioned plea for a new model of politics to explain the politics of human rights. This is arguably ever more important in an era of network-centric warfare and the robotics revolution, which have massive implications for human rights as we know and conceive of them. It is in this regard that the notion that we should focus on ‘bodily harm’ in caring about human rights, which is introduced in Sikkink’s (1998:520) work, is particularly useful in drone analysis.

Such a politics of human rights potentially is a crucial approach to areas of work that involve network-centric warfare, drones or UAVs or lethal autonomous weapons, as the issues at stake embrace identities and politics in ways that can obscure the human rights issues that lie at the root. In this regard, the notion of ‘bodily harm’ can become universally understood across different cultural backgrounds. It is clear when we look at the life cycle of a norm that ideational framing would form a mission-critical component of the first stage of the norm’s life

cycle, and norm entrepreneurs therefore can be expected to spend a significant time thinking through frame construction. We will see in Chapter 4 how the United States does this as a norm entrepreneur with respect to drones and prevailing human rights norms. From what has been highlighted, it should be equally clear that frame contestation is inevitable, as the different life stages of norm cycles will inevitably bring competing frames into a normatively contested and contestable space. The resonance, or lack thereof, of frames will have to be further explained by factors that could include resources, or the relative power of frame advocates as norm entrepreneurs.

Fisk and Ramos (2014), who depart from normal norm analysis focused on human rights norms to establish cascading new defence norms, seek to probe the extent to which preventive self-defence may be said to be a 'cascading norm' in the international community, following the use of precedents in this regard by the United States in the war in Iraq and in its use of drones or UAVs in the global war on terror. They argue that the imminence standard, which sanctions the use of force, is now being disregarded by repeated violation by various states, turning the existing norm of pre-emptive self-defence on its head in favour of preventive self-defence. The authors analyse the rhetoric of selected international leaders, as well as their security policies in this regard, to trace the life cycle of the norm of pre-emptive self-defence and its possible cascading status in interrogating at which stage the life cycle of the norm, if any, may be. They argue that we see growing acceptance of a unilateral preventive strategy that embraces the use of drones (Fisk & Ramos, 2014:163). As they point out, it is becoming increasingly common for a strategy of preventive self-defence to be used for targeted killing beyond drone or UAV usage to embrace notions of the extreme contingency plan for nuclear war. In this regard, they cite the US as a reluctant yet powerful and successful state policy entrepreneur. This is because the strategy and tactics (such as the use of special forces, counter-insurgency doctrine and drone strikes) that the US adopted in the Iraq war is now being replicated by others and leading to a proliferation of drones or UAVs in the international system, creating clear new precedents along the way. According to Fisk and Ramos (2014:164), "... other powerful states are bandwagoning with the United States, affirming the legitimacy of this norm in both word and deed".

This phenomenon builds momentum for norm diffusion, and Fisk and Ramos see the United States as a problematic, if not questionable, norm entrepreneur that could be diffusing problematic or even damaging norms. According to Fisk and Ramos (2014:164), we are seeing: "... a questionable 'hero' as norm entrepreneur (the US) and the diffusion of a potentially immoral and destabilizing norm". The norm at issue is that of preventive self-defence and the use of drones to achieve it. As they show, it is the norm informing every drone strike that dispenses with notions of the imminence of threats as a requirement of law. They

point out that this shift toward preventive logic is systemic and that there has been a clear and seamless continuation and advancement between the 2002 National Security Strategy of the United States of America (known as the ‘Bush Doctrine’) and the first 2010 National Security Strategy of Bush’s successor, President Barack Obama. The 2010 policy document made it clear that it retained the right to use force unilaterally, and this solidified the notion of the preventive use of force of the Bush Doctrine. This continuation of the expansive use of force between administrations, both Republican and Democratic, essentially included expansive, signature drone strikes against suspected terrorists whose identities are not confirmed before they are killed (i.e. signature strikes based on ‘patterns of life’ analysis). This altered over time, as we shall see, and President Obama and his administration crafted significant rhetorical justificatory contestations to favour drone wars. This process and policy went beyond the Bush era’s initial targeted killing outside of a designated combat zone (which expanded from Afghanistan in 2001 to Yemen in 2002), and the scope has kept expanding to widen beyond targeting Al-Qaeda to a collection of militant groups listed in the broader Middle East and Africa. Fisk and Ramos conclude that not only has the US acted as a norm entrepreneur on preventive self-defence norms, but it has contributed to a cascading norm in the international community by doing so. In seeking to trace the diffusion of the strategy of preventive self-defence, ranging from targeted killing to full-scale war, the authors track experiences in India, Russia, Germany and China with respect to their security strategies, actions and key public statements by leaders. They conclude that there has indeed been norm diffusion and that the cascading of the new norm arguably may be present.

Militaries have moved from defence to offence and we see revolutions in military affairs and drone proliferation becoming much more commonplace. Beyond similarities in state rhetoric, there are similarities that suggest the diffusion of norms of preventive self-defence. The question is whether we see profound diffusion of a new norm, or whether we see profound contestation of existing sets of norms codified in the UN Charter, and what this may mean.

Two of Fisk and Ramos’s (2014:181) specific findings are important:

- Firstly, they find that in all four cases they focus on, leaders cite the example of the US to legitimate their actions in India, citing 9/11 specifically, and
- Secondly, they find a strong correlation between strategies of preventive self-defence and decisions by states to acquire drone technology with precision-strike capability.

This work is therefore important as a set of case studies to show the real-world consequences of ideational frames around preventive self-defence and how such an ideational frame can be said to contribute directly to drone proliferation. In this regard, it also ought to be clear that the Iraq war set a very dangerous precedent in this regard for the international system in a world

in which geopolitics and possible great power conflict may be back on the radar, possibly pitting the United States against China and Russia. It seems both plausible and dangerous that the long-standing global norm regarding the use of forces as a last resort is waning, and that there is an element of transnational norm diffusion present in states following the example set by the United States in the Iraq war in particular.

In a world where the more recent National Security Strategy iterations of both the United States (the 2018 National Security Strategy) and overtures by China invoke possible great power conflict to return to the centre of global public life, we need to pay heed to any cascading norm that moves towards preventive self-defence and seeks to forego 'imminence' within the broader international UN system. Any norm that may include the prospect of preventive or pre-emptive use of autonomous weapons systems merits both exploratory and normative study across normal interdisciplinary and theoretical boundaries. Probing what has happened and what this could presage for Article 51 of the UN Charter is therefore crucial as far as norms are concerned. Given the importance of 'asymmetric wars' and drones in such debates, we now turn to these questions, as they are crucial for the subsequent chapters of this study and for the critical discourse analysis that is to follow in pursuing answers to our questions of the norm life cycle of drone norms.

2.2 Asymmetric Wars, Drones and Norms

As Regueiro (2015) has pointed out, it is crucial to ask whether drones fulfil the legal requirements of the right to self-defence contained in Article 51 of the Charter of the United Nations, and then to probe how this idea may be adjusting legal interpretations of international law to fit the national interests of certain key states. In her examination of the question of whether drones act as a counterterrorism tool and whether they could fall within the ambit of Article 51, she draws our attention to the fact that assertions by the United States and other countries (the 'justificatory norm contestations' of Iommi (2020)) challenge long-held beliefs and principles of proportionality. This is basically the set of issues that are at stake in new norm debates on drones, along with their impact on international human rights law and international humanitarian law. Given that unmanned vehicles and autonomous weapon systems of all kinds will challenge different aspects of law across policy areas such as war, peace, law enforcement and migration, these are critical questions.

It is crucially important to note that drones are not prohibited weapons, nor are they likely to be, but the unique issues they raise about the lawfulness of self-defence counterterror responses that use drones may be, as this is what is at issue in normative discourses on their use. The question is whether very broad interpretations of Article 51 of the UN Charter are desirable as a new norm (which is what justificatory contestations of the norm seek to achieve

through the deployment of rhetoric and persuasive argumentation), or whether the fact that self-defence always ought to be the exception should be a principle maintained by the international community, irrespective of what weapon system is used (drones or lethal autonomous weapons). Whilst pre-emptive self-defence is a lawful response, the question of using it in counterterrorism operations under a 'war banner' is deeply controversial and rightly contested. As Regueiro (2015:159) points out, some regard the United States' assertion of pre-emptive self-defence post-9/11 as a contrary-to-law (*contra legem*) interpretation of the right to self-defence. This is a crucial point, as it lies at the heart of the justificatory norm contestations that we analyse in the rhetorical discursive practices advocating this approach that are used by various key United States administration role players (see Chapter 4). One of the most significant issues that infect these arguments, and renders them weak, is the lack of temporal association between an attack and the response in self-defence terms. Relying on broad Congressional authorities adopted post-9/11 now, as late as in 2020, for example, illustrates the contentious issues located in the norm contestation of Article 51 of the United Nations Charter. These issues are complicated even further by the fact that standards that apply to killing outside the context of an armed conflict are human rights standards. As we will see in Chapter 6 of this study, the United Nations responded strongly to the United States' justificatory norm contestations of Article 51 and efforts to broaden its scope. The work of various UN Special Rapporteurs pushed back against this justificatory norm contestations very strongly in a flurry of reports as drone strikes were being increased under the Obama administration's tenure. These reports directly contested and sought to contradict the rhetorical justificatory assertions of United States policymakers. The tension between counterterrorism policies and law enforcement policies are deeply present in these questions, as they lie at the heart of choices to pursue targeted killing where 'capture' is arguably not possible.

Regueiro (2015:163) concludes by stating categorically that the United States' use of drones for targeted killing, in the context of a permanent war against terrorism, does not properly fit the self-defence norm requirements of Article 51. She reminds us that those who are the target of drones do not act on behalf of any public authority or state, nor are drones used in response to a specific attack raising the temporal problem cited above. She points out that these individuals still have human rights protections in place, however distasteful this may be to drone advocates. Hossain (2015:113) argues that some of these issues could be addressed if a mechanism could be found and developed through existing humanitarian law to ensure that the basic human rights of innocent civilians could be protected, and that effective measures against non-militant ideologist terrorists could be found that precluded the use of automated killing. His assertions suggest that the norm contestation of drone use and human

rights norms will continue, as technological asymmetry and asymmetric war do and will define much of 21st-century conflict.

Crosston (2014:1) asks the key question that is at stake in the manner in which the United States has sought to apply the laws of war to drone usage, namely what happens when the rest of the world's states inevitably catch up with drone technology. Peeling away layers of the United States' strategic approach, he shows concerning ethical practices that can haunt the United States when its continued technological dominance dissipates. According to Crosston (2014:1), "... as the technical capability gap closes between the United States and its adversaries, the timeframe shortens for when America's ethical chickens may come home to roost".

His work shows us the importance of ethics, transparency and long-established standards in the emerging drone environment and the risks posed by norm erosion or regression when technical superiority can no longer be assumed to vest in the hands of the United States and drone proliferation is more widespread. He goes further to argue that some of the ethical double standards that have infected drone usage to date may have deeply undesirable results when there is no longer full technical dominance in the drone space and great power politics may come to the fore once more. Once norm guardrails are removed, and contestation between the United States, Russia and China becomes possible, the way the United States itself has conducted drone use will become a norm too. In such a scenario, the contestation of norms that have secured global peace and security since World War II becomes a crucial arena of study, as emerging technology, weapons systems and asymmetric wars will redraw normative boundaries extensively. This is even more important given that much of the drone use at issue already is far removed from deeper legislative oversight, social accountability, and broad societal review. Indeed, according to Crosston (2014:7), the United States' diplomatic calisthenics is threatening to open Pandora's box in the 21st century:

It is a dangerous Pandora's box one opens by establishing blurred ethical lines and ambiguous legal precedents as any change in the previous technological world order could unleash a drone era that is decidedly less friendly, less open, and likely more violent.

It therefore is critical that we pay attention to ethical questions about drones and the normative shifts they may herald. We need to probe the legal authorisations that placed legal doctrine upon legal doctrine under the Obama administration in order to justify their use as that is a crucial justificatory norm contestation we interrogate in Chapter 4. This is important, as remote weaponry has placed a great burden on the traditions and existing norms of just war theory. When just war theory is potentially manipulated or contested by powerful states, we can

practically guarantee norm regression, as shown in Iommi's (2020) model. Given that it is drone use for counterterrorism that has generated the greatest inconsistencies in norms and ethics, this is effectively where the global banquet hall of norm contestation has been opened in the context of risky global drone proliferation. Crosston (2014:23) concludes by warning about the blowback of having allowed strong ethical and legal norm contestation on drones by the United States once the playing field becomes more level. This is occurring rapidly, and it poses grave dangers for the regression of norms held dear in international human rights law and international humanitarian law across a host of policy areas.

Whilst the United States' dominance in drone technology will continue, it will not be the sole player in the drone arena raising key questions about norm contestation. This danger of norms decaying and dying is at the heart of the work of Kutz (2014), which highlights how norms that once seemed properly internalised and institutionalised can decay and die. For our purposes, the most critical norms at stake are those of international humanitarian law and the assumptions that sanctions must follow breaches of these norms. This is acutely the case where assassinations ought to attract sanction. Where such sanctions have not been forthcoming, we need to be concerned about norms decaying, regressing and dying. Kutz (2014) shows how the United States' own internal norms prohibited assassination under Executive Order (Executive Order 11905 of President Gerald Ford of 1976). As Executive Orders are not criminal law, any breaches cannot attract any criminal sanction. He also argues that the anti-assassination norm was not so secure in international law, allowing a crevice to open for contestation around Article 51 and to pose the question whether extrajudicial killings were entirely prohibited or whether they could be permitted to counter deadly threats. He shows how the first armed drone strike in Yemen in 2002 made norm contestation visible. This act started shifting the norm, and the subsequent rise of the Predator weapons system, broader drone technology and the use of Special Forces to wage war accelerated this shift to the point where such strikes became the counterterrorism tactic of choice during the Obama years.

There thus has been a clear evolution in norm entrepreneurship, which we track more closely through the discussion of *discursive practices* in Chapter 4. According to Kutz (2014:439), "... the principal point is that, from the point of view of the policy elite, the norm of broad prohibition has disappeared and become a norm of broad permission". In this regard, he notes that this permissive approach enjoys broad bipartisan support. This support followed a deliberate process of norm erosion fashioned by political elites as a way to leverage technology to serve security interests and to lower risks to American lives – an issue that always has had high political costs. The risks Kutz (2014:441) highlights with the erosion or regression of the anti-assassination norm through drone strikes are that they also imperil the system of global peace,

as it is the thin edge of the wedge that can move the world closer to the precipice of greater interstate violence. This risk is accentuated by technology. Drones and the executive-level decisions on their use have allowed civilian leaders unprecedented control over lethal military technology without the strong, established traditions of civil-military relations always being respected.

Whilst the events of 9/11 most certainly altered the stakes in terms of global norms, these same norms remain in place today, and this study carefully probed what decay, regressions, cascades and contestations may be in play with drones as more countries acquire and use this technology and develop their own drones. This study therefore probes the new deliberative paradigm that has emerged concerning targeted killing and the role that speech acts and discursive practices have played in this process.

As Di Lellio and Castano (2016) remind us above, it is this new contestation that has placed long-established international humanitarian law norms in play in the post-9/11 era, and we need to be mindful of this, as 'new norms' may be forged where others regress or are deliberately and deliberatively contested. This is particularly true in the light of the new 'asymmetric wars', which will have important consequences where certain existentially threatening enemies are unfettered by either legal or moral boundaries or qualms. It is this norm entrepreneurship by states that must respond to such developments that we turn to in a more focused form in Chapter 4, when we look at the United States' justificatory contestations for drone strikes. Indeed, the United States and Israel have acted as actors that not only contest norms and play roles as norm entrepreneurs, but they are the key players that leverage jurisprudence, litigation and rhetoric to engage in contestations that are justificatory and that could lead to the regression of some norms or to the proposition of opposing norms or modified norms.

It is here where we look to find internalisation of such opposing or modified norms in the broader international community of nations. Instead, what we will see emerging at the level of the United Nations in our analysis in Chapter 6 is an extensive push-back against this norm entrepreneurship, a failed new norm 'cascade' or 'internalisation', despite the significant rhetorical efforts and continued and potentially growing norm contestation. This has and will continue to affect drone usage and shape it at the same time.

It is the very essence of the norms of 'humanity law' (the edifice of international human rights law and international humanitarian law) that is at stake. Indeed, as Parker (2019a) has argued, the only way to effectively defeat the terrorist trap is to ensure that the international system as a whole does not sacrifice human rights to defeat terrorism, lest it risk its overall integrity in the process. He argues that, if we were to sacrifice our 'humanity laws' (international human

rights law and international humanitarian law), all would be lost and he advocates that existing laws allow states adequate scope and latitude for anti-terror campaigns without sacrificing these long-held norms. He argues that if we fail to do so, democracy itself may be at stake – an important argument from a counterterrorism practitioner.

Brunstetter and Jimenez-Bacardi (2015) argue that three key frames have been used to legitimate drones and to seek to bridge gaps between the United States and the international human rights community, namely strategic, legal, and normative frames. The conflicting discourses that separate the United States from the international human rights community are explored using these three frames. The United States, as a norm entrepreneur, argues that drone strikes respect human rights, whilst the human rights community – primarily Human Rights Watch and Amnesty International – strongly challenge such claims. These are the exact issues that we explore in comparing the norm life cycles that these discourses represent in Chapter 4 and Chapter 6 of this study. The authors argue that the United States has pursued a legal-normative discourse that has not only embraced the principles of just war theory, but also sought to rein in the worst excesses of the drone programme by limiting its strategic scope and reinforcing the legitimacy of international humanitarian law as the chosen paradigm. This paradigm is more permissive than international human rights law in certain circumstances. The human rights community has pursued the international human rights law framework as the applicable law and has rejected the shoe-horned international humanitarian law-centric chosen paradigm. They have placed emphasis on the right to life and sought to solidify the core norms of human rights under both of IHRL and IHL. They therefore have rejected being placed before a false choice between two paradigms that combine to give the world what we conceive of as ‘humanity law’. Given Sikkink’s (2001) work on drones and ‘bodily harm’ as a crucial standard to judge human rights breaches across cultural divides, this potentially is of unique significance.

In this approach, the international human rights community rejected the United States’ modified just war interpretations and prized broader comprehension of the inalienable right to life. In such an interpretation it is nearly impossible to conceive of drones ever meeting core human rights requirements. Brunstetter and Jimenez-Bacardi (2015) seek to explore how these narrative strands can combine to craft a new, emerging norm on drone use and broadly permissible drone use. As we shall see in subsequent, more detailed analysis, this does not mean any newly emerging norm may not remain ‘stuck’ or become contested in the new gridlock of great power contestation that has a history and contemporary trajectory within the United Nations Security Council in the 21st century.

At a practical level, it is important to understand what such targeting may mean in the context of 'new wars' or 'asymmetric conflict'. If international humanitarian law applies, civilian populations where terrorists reside places these civilians under the provisions of the laws of armed conflict, which permit greater levels of collateral harm. This contrasts with a zone of peace, where law enforcement paradigms and pressures to capture and to preserve the right to life under human rights norms would apply. This is a strategic shift that does two things; first, it places the human rights of civilians under the United States' calculations of its strategic interests, and second, it allows what is called risk transfer or relying on technology to reduce the risk to United States soldiers and to transfer it to civilian populations under conditions of 'asymmetric wars'. According to Brunstetter and Jimenez-Bacardi (2015:185), "The use of drones as the tool of choice in the United States' fight against terrorism has led to a perpetual war and with it a permanent reinterpretation and devaluing of what human rights mean in the contemporary world".

In this context, theoretical debates on network-centric warfare allow us to explore how warfare is changing, if at all, the implications this may have for what Mary Kaldor (2012) has often referred to as 'new wars', and to consider the implications some of these new norms may have in such an evolving war context. In her seminal work on 'new wars', Kaldor shows how 'old war' thinking in theatres such as Iraq and Afghanistan exacerbated what was, in effect, archetypal 'new wars' hallmarked by identity politics, a criminalised war economy and civilians as the main victims. For her, 'new wars' stand in contrast to 'old wars' in terms of goals, methods of warfare and financing, and revolve around questions of identity politics and not ideology or geopolitics.

In modern asymmetric conflicts, these questions of identity are exacerbated even further by a lack of clarity on the classes of participants in warfare, as the customary distinction between combatant and civilian have been eroded – partly by the complexity of modern warfare and partly by a deliberate blurring of distinctions due to the various rhetorical devices deployed during the war on terror. This has obvious implications for human rights and human rights norms.

On the deep changes in the military that have been dubbed the 'Revolution in Military Affairs' (RMA), and the use of drones, Kaldor (2012) is somewhat more cautious and reminds us that these apparently new concepts and weapons have still been conceived within the inherited institutional framework of war and the military, which envisage wars according to a more traditional model. In looking at the use of drones in places from Kosovo to Iraq, Afghanistan, Pakistan, Yemen and Somalia, Kaldor (2012) states that she shares the view that there has been a Revolution in Military Affairs, but in a different form than what is often assumed – it is

the actual alterations in the social relations of warfare that are at stake, far more than the technology that is being used. Kaldor (2012:179) highlights the extent to which the wars in Iraq and Afghanistan saw an increase in the use of robots and drones. The number of robots grew from 150 by the end of 2004 to 2 400 in 2005, to 5 000 by 2006 and to 12 000 by 2008 – clearly exponential increases. This is also true for drones, as she points out where exponential growth and increasing diversity of size, shape and purpose have been the order of the day. She notes the enthusiasm of many US policy makers for the success of the Predator drones in ‘decapitating’ the Al-Qaeda leadership in Pakistan, Yemen and Somalia. This references the meticulous work of Peter Singer (2009) of the Brookings Institute, in his ground-breaking work *Wired for War*, in which he famously quipped that the growing use of robots is America’s answer to suicide bombers, as it allows for more cost-effective attacks.

Kaldor (2012) reminds us that drone attacks can be thought of as the latest phase in a technology-intensive war on terror, where the theatres in Iraq and Afghanistan have normalised some norm-breaking and eroding behaviour by states, heralding what some have called wars without bodies, or ‘virtuous’ wars. It already seems clear that there are significant ethical and long-internalised norm-based questions about whether war can be waged remotely. Questions of morality clearly arise, as do the deep-seated issues of harm and threats to human security, with significant civilian death tolls associated with Predator strikes. This has raised just war questions of proportionality and harm. These are some of the core issues that arise in discourses about drones, norm contestations and new norms in the international arena. In this regard, the evolution of drone usage, their increasing prospective use in policing and migration control, and possible urban warfare scenarios are of importance, as this will have a significant impact on another important, albeit contested, constructivist theoretical construct in the 21st century, namely human security. Network-centric warfare and ‘new wars’ therefore provide an essential theoretical backdrop to understanding questions of ‘new wars’ and the weapons systems that are associated with this new phenomenon in warfare. It also assists us in disentangling some of the core ethical and legal issues at play in the various speech acts dissected in this study, which seeks to create a deeper understanding of drone discourses, competing ideational frames and possible newly emerging norms. There can be little doubt that Clausewitz would have a few opinions on whether his threshold definition of ‘absolute war’ has been met by some of the shifts and changes we see in such a network-centric mode of warfare potentially leveraging ‘killer robots’ engaged at both a theoretical military doctrine and substantive level in the 21st century. The question this opens up therefore is whether network-centric warfare is bringing about or has brought about deep changes to the very precepts of modern war, and what weapons systems implications this may have for policymakers seeking to establish new norms that may yet remain true to the vision of the

Geneva Conventions and their Protocols, as well as to the Universal Declaration of Human Rights. This is acutely important given contemporary debates on biopolitics and the risk to human life from what has been termed lethal autonomous weapons systems. These issues go to the very heart of this exploratory study.

2.3 Network-Centric Warfare and ‘New Wars’: Where Do Drones Fit In?

In seeking to understand narratives around the drones analysed in this study, we have to grapple some more with how war may be changing in the 21st century, beyond the conceptions of ‘new wars’ explored earlier.

We must probe the notion of network-centric war (NCW). This is a specific doctrine which was pioneered by the United States military in the early 1990s and in which, as subsequently will become clear, Admiral William Owens and Admiral Arthur Cebrowski in particular played a significant role as norm entrepreneurs, along with other senior figures in the US executive branch during the 1990s. These include the likes of senior figures such as Andrew Marshall at the Pentagon. At a doctrinal level, according to Garstka (2000), network-centric war can basically be reduced to an approach to warfare that derives its strength from the effective linking (or networking) of the warfighting enterprise. It places great stock on translating an information technology advantage into a competitive advantage through computer networking of well-informed geographically dispersed forces. Network-centric warfare formed an important conceptual backdrop to the rise of the use of drones and targeted killing, and therefore deserves to be explored briefly, as it can be argued that it too has evolved to the status of an emerging norm with cascading potential in the international system.

According to Guha (2011), network-centric warfare conceives of militaries that operate outside of normal state-centric lenses to engage with decentralised network threats that may lie beyond the confines of how we conceive of traditional threats and may involve non-state actors and various entities that are decentralised. It is therefore a significant question whether modern network-centric militaries, which have been shaped to evolve and respond to the changing nature of threats, respect state sovereignty rules. Can they still be regarded as serving the ‘political’? Do normal civil-military relations still apply? Do network-centric forces compel us to rethink war in quite fundamental ways? These are profound questions with deep normative effects on the established rules of the international order. This is the respect in which it is often argued that network-centric war and the rise of technology and robotics in war bring us ever closer to a point where we move into a post-Clausewitzian phase, with the advent of possible ‘absolute wars’ with devastating consequences for human rights and human life. According to Guha (2011:3), there are two views of NCW: a conservative and a radical view. The conservative view holds that NCW is just a new method, but that war remains essentially

immutable. Conversely, the radical view holds that the information revolution and information and communications technology (ICT) are altering everything, including our sense of time and space and the inevitability of war. Whilst classical Clausewitzian conceptions subjected all war to the political, it seems clear that network-centric war moves us somewhat beyond the reach of the political and could arguably be post-Clausewitzian. We therefore also should expect, in a sense, a change in the vocabulary we use to talk about war and the appearance of new forms of discourse to accompany network-centric warfare. This is indeed what is happening as war becomes oddly 'detached' from politics. What should be clear is that these changes represent threats in informational terms and, as such, an even more fundamental change is taking place in the shape of war with respect to both its character and the very concept of war. The notion that the state potentially can be subsumed entirely by network-centric warfare brings us awfully close to what Clausewitz terrifyingly called 'absolute war'.

It is in this context that we must ask whether drones are already a manifestation of this centuries-old and complex thread between democracy and the military? Even though this thread is nothing new, what we face are somewhat nuanced, new challenges posed by new technology and the greater involvement of civilian leaders in the chains of command that use such weaponry. Consequently, we must raise the prospect that, by using them, democracies may inadvertently make themselves more war prone and not less so, as Sauer and Schörnig (2012) have argued. They argue that the scope and scale of drone use have not only changed the nature of war, but have rendered democracies more war prone. In this regard, Coker (2015) raises the prospect that digital pre-emption shows that nations wish to make war more digestible for their conscience and more affordable in one swoop, raising questions about what responsibility states would be willing to take for the algorithmic war choices they make – also in the future. As Clausewitz made so clear in his body of work on war, war is about human suffering, and it is this very human suffering that is the antidote to war-mongering decisions. If we are to function in a world where such human suffering is 'absent', it would no longer be war but something entirely different.

2.4 Surveying Drone Literature

In one of the most important, and first, works to emerge on the impact of robotics in warfare, Singer (2009) in *Wired for War*, is at pains to point out that the greatest revolution in military affairs of all – the era of robotic warfare – is already upon us, with profound shifts in military technology that range from thousands of robotic systems deployed in Iraq to the boxes and containers of drone pilots dotting the Nevada desert landscape, piloting targeted killing operations in Afghanistan. This revolution in military affairs in robotics matters greatly, as it will not only affect the frontlines of theatres of conflict, but also the battlefield of domestic

politics, where it will have an effect on civil military relations and legislative and executive interactions over the execution of foreign policy. This has implications for democratic accountability. According to Singer (2009:10), it is arguably true that risking 'only' robotic 'lives' could lower the moral and psychological barriers to killing, thereby raising new global moral hazards for the international community. He captures the evolution of the Predator and Reaper drones and the growing demand for these systems supplied by General Atomics, and the 'Polecat' manufactured by Lockheed Martin, as well as plans for a robotic 'high altitude airship' and a plethora of 'itty-bitty, teeny-weeny UAV' that would form swarms (Singer, 2009:116-117). Furthermore, he points out that the future of unmanned drones is the unmanned combat aerial vehicle (UCAV).

Singer (2009) traces the role of key defence industry figures that acted as norm entrepreneurs in the sense used by Finnemore and Sikkink (1998) and Grant's (2018) agential constructivism. These include Andrew Marshall, a thought leader of long standing at the Pentagon, former US Defence Secretary Donald Rumsfeld, and Admiral Arthur Cebrowski (arguably the father of the idea of 'network-centric warfare'). However, he sensitises us throughout his work not to lose sight of the robotics revolution and the explosion of lethal autonomous weapon systems and artificial intelligence-based systems of future war by overemphasising network-centric warfare, and points to the fact that we now stand on the cusp of what Christopher Coker – the author of *Future War* – has referred to as 'post human history' (Singer, 2009:194). Cockburn (2016:48) emphasises the role of Admiral Arthur Cebrowski, who is credited with coining the phrase 'net-centric' to describe the promise of connecting all sources of information of different weapons systems across platforms to maximise communications to a central node and, in turn, between and amongst the different platforms themselves.

The rise of these conceptual evolutions in the revolution in military affairs coincided with the rise of a crucial private-sector firm – General Atomics – which bought the company (Leading Systems) of the man known as the 'drone father', Avraham Karem. The first Predator drone flew in 1994, naturally 'unarmed' and primarily tasked with surveillance. As Cockburn (2016:252) shows, the further evolution of GPS, as well as the 9/11 attacks, then paved the way for greater drone demand, drone production and the weaponisation of drones. Over time, this would grow into a global network of drones and communication hubs spanning Nevada, Ramstein in Germany, Sicily in Italy, Kadena in Japan, the Seychelles, Djibouti and Niger and many others, in an evolving full-system dominance map. The Predator drone would also be joined by ever more sophisticated drones, such as the Reaper (RQ 170 and RQ 180) and the Global Hawk. Many of these products would be emulated and reverse engineered, and ever more countries would subsequently commence building and developing drone technology,

ultimately creating what has been called a new phase of drone proliferation in the global community of nations. As we shall see, this mere fact will persistently create dynamics of contestation in the norm life cycles of drones. Boot (2006) also highlights the great advances made in UAVs, with the US in the lead and Israel a close second, and points to the greater levels of proliferation that are already evident, with more than 40 countries vying for drone supremacy. Following the Iraq war, the post-Iraq war dividend has seen drones rapidly shifting from being used for surveillance to being used in actively attacking enemies and in counterterrorism policy more broadly, as we see in subsequent chapters. Boot (2006:24) highlights two trends. Newer UAVs than the Predator do not require constant human control and can be programmed to fly themselves and drop munitions without human control. In addition, other newer UAVs are so varied and small that they could saturate a battlefield with sensors to achieve what is referred to as 'swarming'. All these evolutions pose moral risks amidst growing global political contestations of various norms by the great powers within the international system.

Brose (2019) draws attention to the need to match prowess to technological evolution and states that the United States military will have to alter how it fights, and not just what it fights with. He envisages three defining characteristics of what such a military may look like. According to Brose (2019:131):

- First, it would have large quantities of smaller systems: swarms of intelligent machines that distribute sensing, movement, shooting and communications away from vulnerable single points of failure and out to the edges of vast, dispersed networks.
- Second, those systems would be cheap and expendable, which would make it easier to endure large-scale losses in combat.
- Finally, these systems would be unmanned and autonomous to the extent that is ethically acceptable (which may prove a challenging prospect).

However complicated it may be to find such an ethical ground, Brose (2019:132) emphasises that this is the kind of war machine that the US will need to build to keep pace with and outstrip China and Russia, noting that its purpose would remain a posture that seeks to prepare for war while hoping never having to fight one. However, if one is triggered, it would have to be able to destroy any other combat force faster and cheaper. Brose's (2019) thoughts are echoed by Scharre (2019:135), who also calls on the US to ramp up its efforts in artificial intelligence (AI) and its use in war, mindful of the risks it may pose whilst simultaneously noting that the country that takes the lead in AI will gain a military advantage over its competitors. It seems clear that drones, lethal autonomous weapons and artificial intelligence will all form

part of possible future 'great power' conflicts, as envisaged in the United States' new National Security Strategy released in 2018. This marks a consistent progression between the three National Security Strategies of 2002, 2010 and 2018 of three different United States presidents.

In broadening our literature review of drones, it is important to flag two issues relating to narrative strands that are present in drone discourses and reflected in the literature review upfront:

- Firstly, the literature can be demarcated into areas that feed a 'bad drone' narrative strand (and this literature largely looks at the use of drones in the war on terror, targeted killing and consequent civilian casualties), or a 'good drone' narrative strand (and this literature largely looks at the use of drones in humanitarian intervention, policing and/or border control and more commercial usage).
- Secondly, the 'bad drone' and 'good drone' literature shows timelines, with the 'bad drone' literature being predominant during the height of the wars in Iraq and Afghanistan and the epoch of the war on terror, respectively, and with the escalation of drone wars during the Obama presidency. This is so until approximately 2016, when a group of scholars deliberately set out to craft a new narrative strand on drones that sought to depict a 'good drone' narrative that could also point to new norm emergence with a view to the use of drones in humanitarian interventions and beyond.

With this in mind, we will turn to a review of some selected, important and noteworthy literature on drones. Given the range of disciplines that are affected by narrative strands on drones, this review may reflect a variety of disciplines, thereby suggesting and stressing the ongoing need to work in an interdisciplinary fashion in the international relations discipline itself, whilst asking the big questions of what drone proliferation may mean in terms of new norms within the international system more broadly. It is also fair to say that a sample of key and important texts is used for the literature review in this study, as there is an ever-expanding literature on drones that has exploded since at least 2010.

According to Wiesner (2017), most of the literature on drones typifies their evolution as a positive development from the vantage point of a technology-deterministic approach, which emphasises that they are not subject to human fatigue. Some do question drone efficacy at a tactical level, the impact on communities where they are deployed, as well as the lasting conflicts with host-country governments and ethical questions of standards of decency applied in the utilisation of combat drones. What Wiesner (2017) does quite potently is to show that sociologists, sadly, are nearly absent from the drone discourse, with only two articles appearing in 2015. In asking why we do not have a sociology of the drone, her work shows

why this absence of sociologists matters. This absence means that crucial questions about institutional interests that further development and drone deployment imply are left unexplored. This matters greatly and is a notable disciplinary gap in the literature, which is evident in the types of questions that sociologists would be asking, such as why drones exist, what may be driving their proliferation, and what effect they will have on society more broadly. This brief review of the gaping hole in the drone literature from the field of sociology echoes some of the holes that we will see emerge from the political science and international relations perspectives. Sociologists need to be asking far deeper and more probing questions about drones and society. Equally crucially, political scientists and international relations scholars should be asking far deeper questions about transparency, democratic accountability and norms than has currently been the case. These trendlines will affect the maintenance of international peace and security in the 21st century profoundly. The reasons for these assertions on the need to address key disciplinary gaps on drones will emerge clearly in the remainder of the review.

2.4.1 The Private Sector and Security

Wittes and Blum (2015) contribute to drone discourses and our understanding of how technology is fundamentally altering our conception of security and how this has meant that governments are no longer the sole guarantors of our security. Given the preponderance of the private sector in the drone space, this is a fundamentally crucial observation and adds a profit motive to debates on security. Crampton (2013), a career CIA officer, documents how the Pentagon pushed back against the agency developing armed drones, and this remains one of the defining features of drone discourses: the inter-agency and interdepartmental rivalries that are evident and present in drone discourses, as well as the deeper transparency and accountability questions that arise for democratic governance and the political accountability of the executive to the legislature. This is a theme that is also addressed by Bergen and Rothberg (2014), who cluster essays in a collection according to thematic areas: drones on the ground, drones and the laws of war, drones and policy, and drones and the future of war.

The contribution of Bergen and Rothberg (2014) shines light on this iconic military technology, which effectively serves as a lens through which United States foreign policy is understood. It is beyond dispute, they argue, that drones project lethal force in ways that question the very conception of war, rules, norms and moral understanding. This provides a key normative basis for interrogating what norms are being set by current practices. New technology is transforming how war is conducted by the United States – an important international norm-

setter, and consequently we must expect this to be emulated by other states, as well as non-state actors.

In an equally thoughtful work on drones and the implications of remote-controlled warfare, Gusterson (2017) looks at some of the dilemmas this new weapon system poses from various perspectives: victims, drone pilots, anti-drone activists, international lawyers, and military strategists. This work essentially captures three crucial aspects that are of particular interest to this study of possible emerging norms on drones: firstly, the fact that these weapons systems are deployed at presidential discretion; secondly, that they are used in regular war zones but also to kill people in countries such as Yemen and Somalia, where the United States is not at war; and thirdly, the targeted killing includes the killing of American citizens. He makes it noticeably clear why we must create various ideational frames about drones, given the discomfort they generate. It is only by doing so that we can allow ourselves to admit that humanity has invented a new and, oddly, morbidly fascinating marker for the irreversible mechanisation of death. It is perhaps not surprising that Gusterson's work has attracted high praise from Michael Walzer within the ambit of the just war tradition.

2.4.2 The Role of Ideational Frames, Norms and Ethics

One of the most important, and arguably controversial, books about drones looks closely at ideational frames and rhetoric. Gregoire Chamayou's (2013) award-winning work takes a strong position against United States drone warfare. It is important to state clearly that it is a polemical work, and this is exactly why it is controversial. Chamayou (2013) points out that it is the absence of reciprocal vulnerability (arguably a key feature of asymmetric warfare) between drone operators and their victims that ought to make us stop and ask whether we are still dealing with warfare, or with a new form of global 'manhunting' as a possible newly emerging if not cascading norm. Following similar lines of argument to Gusterson's (2017), he points out that a distinction ought to be drawn between formal theatres of war, like Iraq and Afghanistan, where the United States is formally at war and where American lives are at stake, and countries with which America is not at war, such as Pakistan, Yemen and Somalia. In these zones, drones are deployed and operate without American lives being at stake. The important contribution made by Chamayou (2013) and his polemical argument is that it shines a vivid light on the fact that the rhetoric of the Obama administration has consistently sought to blur the line between warfare and police work, thereby crafting new, ideational frames that can permit targeted killing and possibly create demand for drones beyond warzones in law enforcement spaces 'at home'. There thus effectively are two 'blurring lines' present – the first between war and peace, and the second between war and police work. What is also clear is the extent to which the initial post-9/11 War Powers Resolution (passed by the United States

Congress in the wake of 9/11) has been used to facilitate drone strikes in Pakistan, Yemen and Somalia, thus blurring the line between war and peace and creating wide-ranging precedents that could set new norms in the international community that could be leveraged by other members of this community amidst the growing trends of global drone proliferation.

In a set of book reviews on recent drone publications tracing the drone revolution, Freedman (2016:154) states his belief that drones are just another weapon in the military arsenal and not a fully-fledged revolution in military affairs. He reminds us that drones played a supporting role for US troops in Iraq and Afghanistan, but concedes that they became the lead agents against terrorists in areas where the United States is not directly at war or involved, such as Pakistan, Somalia and Yemen. Freedman (2016:157) sounds an interesting warning note about not overplaying drone discourses, as they may be a highly particular outcome of a specific period of the war on terror. He argues that, whilst targeted killing has shaped the reputation of drones, they may be more valuable as tools of surveillance in the longer run.

In a work of particular interest to political scientists interested in new norms and the role of the United States as a norm entrepreneur on drones, Kraag and Kreps (2014) draw on the *Perpetual Peace* work of Emmanuel Kant and the democratic constraints that ought to apply to leaders who are accountable to their citizens when they choose to wage wars. This embraces the fact that they can be removed from power on the basis of facts and transparency. Invoking this contrasting philosophical position, they show how drone warfare effectively erases this democratic constraint by saving the leaders the spectacle of dead soldiers arriving home from costly wars in body bags. Arguably, drones can loiter indefinitely over Pakistan, Yemen and Somalia, without the citizens at home being perturbed by them, thereby enabling perpetual war without political costs: another ideational frame we will encounter in the speeches and speech acts analysed in this study.

A fascinating contribution to the question about the norms that may be emerging vis-à-vis drones comes from a former US Air Force pilot, Colonel Shane Riza (2013). This practitioner perspective echoes the fear that robotics makes it easier to go to war and raises crucial questions of impunity, which scholars of political science and international relations ought to take very seriously from normative, scholarly vantage points that interrogate emerging and cascading norms in the international system that have domestic body politic resonances.

2.4.3 Legal, Moral and Geopolitical Dimensions

Cohn (2015) brings together a collection of essays that explore legal, moral and geopolitical questions that arise as a consequence of drones and targeted killing. The focus falls on the rise of assassinations in the Obama era as a counter to Bush-era detention strategies in the war on terror. At issue are the legal questions and complexities that arise, as well as the

broader consequences of these strikes for civilians and the ‘blowback’ for the United States and its foreign policy. In this regard, the work of decorated civil society activist, feminist and founder of Code Pink (an anti-drone activist organisation), Medea Benjamin, receives attention. It spotlights the extent to which much of the anti-drone activism that we have seen emerges from feminist entities and the transnational feminist movement, which is now solidifying around the Campaign to Ban Killer Robots. It calls for the institution of a feminist foreign policy as a counter to a highly masculine security posture that threatens global disarmament regimes. In his contribution to the collection, Van der Linden (2015) measures drones against the longstanding just war tradition and finds them wanting with respect to all considerations of *jus ad bellum* (justice in the resort to war), *jus in bello* (justice in the execution of war), and *jus ante bellum* (justice before war). He launches an impassioned plea for an international treaty against autonomous lethal weapons.

In their contribution to the growing drone literature, Rogers and Hill (2014) also emphasise how drones have helped ‘normalise’ the use of states that opt to target individuals with a military-scale force, thereby blurring the lines between law enforcement and military action in war. They show how the just war tradition has quite literally been battered by drone strikes to a new set of emerging norms that can, in their view, only be regressive to the global community of nations and undermine international peace and stability. By way of a final word, the authors probe whether the rise in drones is desirable from a global security perspective, and conclude emphatically that it is not. In understanding the emergence and proliferation of drones, one cannot delink this event from the extent to which the world changed with the terror attacks on the United States on 9/11.

In an edited volume, Burk (2013) asks whether these events therefore also have changed our way of war. He argues that it has, by introducing a new ‘limited way of war’, namely wars fought with limited means for limited objectives, which stands in contrast to previous iterations of war. He highlights that the evolution of the drone therefore can be regarded as the rise of a limited liability weapon optimised to have a deadly impact for minimal cost to the user. All the authors in this collection view 9/11 as an ‘epoch-making event’ and a turning point in the way the West wages war. It is interesting to note that the work of the authors in this volume echoes the construction of ideational frames post-9/11, when the narrative of the United States as an innocent victim of an unprecedented terrorist outrage became crucial not only to securing a wide-ranging war powers resolution from Congress, but also subsequent interrogation techniques and a rise in arming and expanding drone usage and covert war. This all flowed from a new reference point of preventive self-defence as an emerging, if not cascading, norm marked by continuity throughout the Bush and Obama presidencies. Williams (2013) traces the rise of the CIA’s Predator War during the Obama years, citing the expansive use of drones

in Pakistan and Afghanistan and nearly a dozen other countries. Obama's use of drones to decapitate Al-Qaeda, and how it was pushed to the edge of strategic collapse, is hailed by drone advocates.

Bashir and Crews (2012) take a different approach and look at these issues from the perspective of those who literally live under their strike range, consistently susceptible to attack, and by unpacking the sheer complexity of the issues at stake in the Afghanistan-Pakistan territorial linkage (shorthand by Obama-era officials as 'Af-Pak'), and the complicated role of the Taliban in this region. The collection referred to above therefore serves to make the victims that are often only looked at through the unblinking stare of the drone itself much more visible and complex from a human rights perspective. It frontends their lives and complex region, problematises it and shows us the very people we only notice when, in most studies, they are either the victims or perpetrators of attacks. In a similar vein, and emphasising the actual impact of drones, Acheson and Pytlak (2017) explore the humanitarian impact of drones. Whilst their work keeps exploring the core questions of targeted killings, they crucially look deeper at widening the aperture of the legal lens to cover broader humanitarian impacts and perspectives, thereby embracing the consequences for broader peace and security, the environment, gender-based and religious perspectives. This volume contains a host of important contributions that highlight different aspects of the drone debates. Throughout this volume, the varied concerns probed show up the notion that drones can be used without doing 'public harm'. Indeed, the entire volume speaks to the erosion of the just war tradition by drones and how the emergence of drones has clearly and effectively, and gradually and persistently, eroded that very tradition. In addition, its largely civilian-focused perspective stands in stark contrast to the contributions of those who serve in the military.

A volume on drones that brings together key military thought leaders conversely seeks to probe critical issues about drones from the perspective of ethical, moral, legal, technical and strategic perspectives. This is exactly what Jackson (2018) does. The critical contribution of this volume lies in the effort it makes to ask whether autonomous weapons are capable of distinguishing between civilians and military objects, given how much of the just war tradition and laws of war turn on this very issue. Whether it is whether drones can be programmed to adopt a 'first-do-no-harm' strategy, or the fact that we are dealing with the fact that tomorrow's science fiction technology has already become part of our daily challenges, this volume makes a unique contribution. It also does so by reminding us that drones profoundly blur the line between the private and public sector, thereby creating a grey area for the civilian and military world that is riddled with risk for both sides. In a compelling work that uses experimental research to analyse the effect of combat drones on America's support for the use of force, Walsh and Schulzke (2018) find that drones have had important yet nuanced effects on

support for the use of force. This will clearly have implications for the democratic control of military action, as well as an understanding of how drone proliferation may influence foreign policy regarding civil-military relations and aid.

Much of the literature, as we can see, is targeted at post-9/11 counterterrorism paradigms and targeted-killing questions. However, there is an exceedingly small yet growing literature on the use of drones beyond military use that seeks to tap into an emerging 'good' drone narrative strand.

In *The Good Drone*, Sandvik and Jumbert (2016) draw our attention to the use of drones for humanitarian purposes. Their work argues that the notion that drones can be used for humanitarian and other life-saving activities can assist in creating an alternative discourse on drones. Such a discourse can then be leveraged to develop and create awareness of different possibilities and applications. Drones may have to 'do good'. It is also possible that the 'good drone' narrative has been appropriated by the drone warfare discourse as a strategy to make war 'more human', as *The Good Drone* is at pains to point out. Given that it is nearly two decades since the post-9/11 decision was taken to arm drones and engage in targeted killing, it is interesting that a collection of essays was put together that seeks to address that dominant discourse with this countervailing narrative strand aimed at entrenching a narrative of the 'good drone', and that it appeared in 2016 – merely a few years ago. This is noticeable in and of itself and of interest given the hitherto dominant narrative discourse strands on drones from a human rights and humanitarian law perspective. As the marketing brochure of the *Good Drone* itself makes clear, this was a deliberate choice and a discourse-generating project.

From a brief overview of selected literature on drones, drone discourses and drone usage, we must ask where the world stands in terms of drone proliferation? Are we setting a new normal, or is the world actively engaged in crafting new norms – whether emergent or cascading? Which states will have to play a bigger role in agenda-setting on norms globally, and why? Who is leading the pack and who is following? In an excellent overview of some of these questions, Kreps and Zenko (2014) point out that only about 41 states had drones of any kind by 2004, but this number had shot up to approximately 76 by 2011. Among these countries are India, China, Turkey, South Africa, France, Italy, and many others. Kreps and Zenko point out that, thus far, there has been no marked effort to craft a comprehensive strategy to limit armed drone proliferation or their responsible use. This is important because drones create unique moral hazards, as they keep pilots away from immediate danger and render war 'virtuous', thus raising moral hazards. Pointing to the preponderance of America, Israel and Britain in drone usage, and consequently their uniquely important role as norm-setting states, the authors argue that they share an important burden to craft new regulatory regimes. Kreps

and Zenko point out that it would be important for the United States to keep its exports of armed drones to a minimum and to revisit its targeted killing policies, including greater transparency on its use of armed drones thus far. They also expressly call for the US Congress to increase its oversight over drones. At a global level, they call for the strengthening of the Missile Technology Control Regime (MTCR), which only partly covers drones, and for its status to be addressed. They argue that this is simply an absolute imperative.

According to Kreps and Zenko (2014:78):

Armed drones today may not be quite as destabilising as ballistic missiles seemed then, but their dangers will grow as more countries acquire the ability to use them. Not taking measures now to mitigate their spread will only undermine the United States' long-term interests.

At the time of writing, drones had caused havoc in the civilian airspace over Heathrow and Gatwick airports, grounding flights. Drones have started nearly wars over the Straits of Hormuz, with the US and Iran sabre-rattling and narrowly avoiding combat, as there was 'no pilot' in the drone that was shot down by Iranian defence systems. This 'unmanned' reason to avoid full-blown war vividly highlights how drones and drone proliferation call for ever greater levels of transparency and conversations about drones in the public square, in our parliaments worldwide, and in civil society more broadly. The targeted killing of Iranian Major General Qassem Suleimani via drone strike highlights how these issues and questions have the potential to alter norms in both global and domestic body politics, and what the possible implications may be. Drones do and will have an irrevocable impact on war and peace, on policing and migration control, on possible future urban warfare and in many areas of our lives, where they will affect our privacy – if not our very lives – as we stand on the cusp of post-human history.

If we are to grapple with these issues, we need to be mindful of this evolution and seek to witness the emergence of new, hopefully values-based, norms in the international system that could remain true to the basic tenets of international human rights law, international humanitarian law and the laws of armed conflict re-interpreted for the challenges of the 21st century. The key, however, is that we need to be clear on the role norm entrepreneurs are currently playing in leveraging discourse and persuasion on norms for drones, and what this may imply for the future in the 21st century. This study seeks to start such an exploration of the actions of norm entrepreneurs, however tentative it may be, and to make a small contribution to a growing body of constructivist-inspired research work in this field.

Chapter 3

Fairclough's Three-Dimensional Critical Discourse Analysis Model: A Methodological Approach to the Study of Drones

Any social science study must reflect on Creswell (2002, 2014) and his seminal works on research methods. He reminds us that all qualitative research is quite different to quantitative research, and that qualitative research has specific research designs and approaches. This study uses a research approach that is inductive in nature. It seeks to show how important it is to ascertain the meaning of drones as weapon systems and norm challengers in the 21st century, and seeks to break down the complexity of these issues at stake in modern justificatory contestations of certain core norms of the UN system and human rights law analytically.

This research sets itself the goal of building from the specifics we can find about drone use in the sources selected, to some interpretations of norms that we will see emerging or contested in speech acts and various semiotic forms. A critical feature of this work is the use of critical discourse analysis, crucially the work of Fairclough (2001) and his three-dimensional model, and that of Van Dijk (2008) on frames and manipulation as the core approach that guides the research design. Critical discourse analysis is the tool we use to dissect secondary sources on drones and drone strikes. Given the covert nature of drone strikes, which represents a research hurdle, the focus is on discourses on drones as opposed to either a quantitative or mixed-methods study that would need to rely far more heavily on primary information that may not be available. The data comprises secondary sources, such as texts, speeches, films and official documents, which are the core tools of the critical discourse analysis undertaken here, and efforts to analyse such secondary sources to illustrate theoretical and normative questions at stake in the rise of drones.

The theoretical worldview that informs this study is constructivist, the research approach is qualitative, and the research method involves data collection and data analysis using critical discourse analysis as the guide. This analysis informs tentative exploratory conclusions about what we may be seeing in the norm life cycle of drones, drawing on the constructivist work of Finnemore and Sikkink (1998), Stimmer (2019) and Iommi (2020).

This study uses a qualitative methodological approach centred on actors as the producers of meaning by exploring their selected speeches and speech acts. What is being used is an interpretative exploratory research approach that looks at discourses as super-subjective structures that both enable and constrain human – and state – agency in creating meaning and room for state action.

This study used a qualitative research design to analyse how the international community talks about drones and their use, and what this may signify about norms in this community. As we shall see in exploring this largely open-ended question, the research method, leveraging Fairclough's (1989, 2014) three-dimensional framework, is methodologically focused on text, image and film analysis to explore norms through discourse and discursive practice.

As we have seen in Chapter 2, the research questions that have been set seek to build a bridge between international relations and international law, and to fill a gap in the literature on how these fields intersect in discourses on drones and what this may signify for the values of the international community. Little research has been done on drones in social science fields such as political studies and sociology that probe normative questions. It is hoped that, by exploring drones as weapon systems with certain normative implications, this study may serve to address that gap. Such contributions may aid us in understanding the normative issues in terms of human rights at stake in drone use a bit better, as well as the strategic implications this may have for the world.

This study pivots around Fairclough's framework, which is explicitly chosen as it assists us in grappling with deeper discussions of power and values and norms that are present in drone use, and the justificatory contestations by key states of seemingly strongly internalised and institutionalised norms within the international system.

In this critical discourse analysis (CDA) of drones, an effort is made to better understand and explore the activities of two specifically identified norm entrepreneurs in evolving life cycles of norms that are affected by drones and drone usage. These are the United States presidency, as a unique institution in terms of its role in foreign policy and how this was leveraged during the tenure of Barack Obama, and the United Nations, as an institution with agency in the form of the United Nations Special Rapporteur on Targeted Killing and the United Nations Department of Peacekeeping Operations.

We do this by focusing on various 'speech acts'. In this context, we focus on speech acts within a discourse analysis context and the meaning of real communicative acts – be these political speeches, official documents or visual representations of speech acts in a more multimodal form. Gardiner (1932:71) traces speech acts as far back as ancient Greece. He emphasises that speech acts are temporal and situational: "An act of speech is not a mere set of words capable of being repeated on a number of separate occasions, but a particular transient occurrence involving definite individuals and tied down to a special time and place."

This study therefore expressly groups together such distinctive 'speech acts' in chapters 4 to 6 for analytical purposes. It looks at utterances (direct speech acts) in which we can clearly link the structure and the communicative function of the utterance. In linguistics, Fairclough's

key academic field, a speech act is an utterance defined in terms of a speaker's intention and the effect it has on a listener. It therefore is clear why this study would be interested in speech acts that are utterances that were meant to normatively legitimise drone use for specific purposes.

This is done to explore discourses on drones and their use that may reveal newly emerging norms on drones and drone usage, and specific political speeches and speech acts that may signify this or that may be suggestive of deeper justificatory norm contestation processes. These selected speech acts and texts form a specifically selected set of secondary sources, which are buttressed by deeper contextual analysis as well as visual semiotics (a multimodal CDA aspect) in the form of an analysis of fictional films and documentaries that deal with similar narrative strands to the drone narrative strands present in the speech acts. The areas where justificatory norm contestations exist about the impact the use of drones has on internalised and institutionalised norms enshrined in the United Nations Charter and international human rights instruments is what is at issue.

Some of these speeches, speech acts and multimodal visual semiotics leveraged to answer the research questions set in the previous chapters include:

- Selected speeches of President Obama and some of his key policy advisers and senior officials that deal with drone usage and that are justificatory contestations of existing norms. These come from when these issues became more visible during the period spanning approximately 2012 to 2016;
- Policy statements by the US President on targeted killing and the Presidential Policy Guideline (PPG) document released by President Barack Obama following successful court action by the American Civil Liberties Union (ACLU) under the Freedom of Information laws in the United States to make targeted killing executive decision-making more visible and accountable;
- Selected reports of the United Nations Special Rapporteur on Targeted Killing about the use of drones for targeted killing operations and by the DPKO on the use of drones in modern peacekeeping that seek to push back and protect existing internalised and institutionalised norms within the UN system and create new ones in the peacekeeping field;
- Selected films on drones and documentary films on drones on both the justificatory contestation and pushback score of drone use, selected to highlight specific narrative strands explored in this study; and

- Selected documents and civil society documents on drones and drone usage for targeted killing and humanitarian assistance that highlight different narrative strands on drones and drone discourses.

From what has been discussed in Chapter 2 of this study, there are clear path dependencies between the George W. Bush and Barack Obama presidencies in both policies and speeches against the broader backdrop of the 'war on terror' ideational frame and the 'Bush Doctrine'. This is suggestive of a bipartisan approach to these issues, which is true at both the level of substantive policy responses of a militaristic nature, in which drone discourses are largely embedded, and the clear 'us/them' relational polarisations that persist between the two administrations, along with the use of specific ideational frames and rhetorical devices that recall the work of Van Dijk (2008) on the role of 'ideational frames'. His work is cited extensively in this study's sections on such frames and manipulation elaborated on below.

It is a matter of historical record that President Obama increased the use of drones under a rhetorical rubric of 'surgical' or 'precision' strikes. It therefore is of specific interest to probe at least five specific intertextually and interdiscursive political speeches of the Obama era. They shed light on drone discourses and highlight policy-making at the executive level and at the 'expertise' level of key officials prominent in the President's drone policy approaches and who were part and parcel of the rhetorical justificatory norm contestation processes we analyse.

Consequently, very specific speeches are selected. These are:

- President Obama's Westpoint speech on drones,
- John Brennan's speech on drones and targeted killing,
- Eric Holder's speech on drones under the 'law enforcement' rubric, and
- Harold Hong-Jong-Koh's Law Society speech on targeted killing.

In addition, the drone discourse study includes the Presidential Policy Guidelines (PPG) policy document on targeted killing and drone strikes that was released in late 2016 in compliance with a ruling in a court case brought by the ACLU following the killing of a US citizen in Yemen. This is the very pinnacle of the justificatory norm contestation that places human rights and Article 51 of the United Nations Charter in contestation. As far as this specifically selected set of speeches and speech acts is concerned, it is also crucial to point out that critical discourse analysis is interested in silence, as silence can also be said to speak. This is acutely apposite in a discourse analysis of drones, as the official policy of the Obama administration was an odd silence given the covert nature of the drone wars, and despite the mounting public evidence that they existed and were challenging existing norms within the global body politic. This peculiar silence was broken by the President formally in a Google hang-out 'townhall'-

style interaction in 2012 that will be referred to briefly and in which drone use and the existence of strikes was formally acknowledged. The significant silence that existed beforehand, especially from 2008 to 2011, was therefore not an odd one from a discourse analysis point of view, given that silence can also be said to speak. It was important that President Obama formally admitted the existence of the programme in the light of mounting and clear evidence of it in Pakistan and Yemen, with growing numbers of civilian casualties. These discourse moments that were selected should provide a reflection of the drone discourse and norm life cycle stages they signify. The latter are embedded in the broader militaristic discourse of the 'war on terror'. Rhetorically, this 'terror as conflict' part of the 'war on terror' frame as a discursive modality then undergoes a shift in nuance to a more 'law-enforcement-driven', arguably 'morally acceptable', version (from the perspective of United States policy-makers) of the same war-like 'ideational frame'.

Whilst the speech acts selected form a small unit of a much larger body of discourse that spans the administrations of various US presidents – both former and current – they are uniquely important for their moment of clear transparency and hence worthy of closer study and exploratory scrutiny. They represent an important sample and lift the lid slightly on a largely covert programme, with one drone programme run by the Central Intelligence Agency (with far fewer formal constraints in a chain of command) and one run by the US military and the Pentagon, specifically its Joint Operations Special Command (JSOC) (with greater chain of command control and more constraints). The selected discourse moments and political speeches are important, as is the Presidential Policy Guidelines (PPG) document, as these are rare moments of transparency in a drone programme that has tested both United States domestic oversight and accountability, as well as international norms, as set out in the previous chapter. This study therefore seeks to probe embedded ideological notions that are constructed, distributed and manipulated in carefully designed discourses on drones and power. Because of this crucial linkage between language and power in framing justificatory norm contestations that are triggered by drone use, we leverage CDA to look not only at the texts themselves, but also at their connections and discursive strategies in a broader context, which includes the impact of similar contestations at the level of popular culture in film and within international organisations, where different United Nations actors are pushing back against the contestation of key norms. In looking at speeches and speech acts of the President and key advisers in the State Department, the Attorney-General's office, the Pentagon and the CIA, we can scan for patterns of coherence or ideological notions embedded in drone discourses by being alert to rhetorical devices and ideational frames that may be present interdiscursively or intertextually.

Employing CDA as our primary analytical technique allows us not only to examine the interplay between texts and their intertextuality and interdiscursivity, but also to trace norms that may be emerging, evolving or cascading – to use Finnemore and Sikkink's (1998) work referenced earlier in Chapter 2 – or to see whether we are at different stages of norm life cycles, mindful of the work of Stimmer (2019) and Iommi (2020). This may be reflected in these constructs, ideational frames or rhetorical 'turns', which could create transnational diffusions and/or norm cascades within the international system, or result in ever-greater norm contestations amongst the great powers in the United Nations system. This analysis will ultimately be strengthened by using different semiotics, such as film, and a multimodal CDA component looking at specific films on drones, in order to trace how these discourses are reflected in a different semiotic form, equally suggestive of the same push-and-pull factors of justificatory norm contestation, and the countervailing defence of existing norms. This approach is therefore engaged in semiotics beyond text and consequently looks at some of the key contributions made by the visual world of films to a multimodal CDA of drone discourses.

The study sought to explore a varied set of films, and vignettes from films and documentary films, to interrogate plot lines, characters, characterisation and dialogue pertinent to the drone discourses we seek to explore. It also analysed the ones that replicate justificatory norm contestation arguments on screen and those that push back to protect existing internalised and institutionalised norms. We sought to understand how these films have, where relevant, captured the work and activities of civil society organisations and journalists who have worked hard to bring to the surface drone discourses, which have largely been covert.

The selection of films examined in subsequent chapters allows us to explore the experiences of drone pilots, drone victims, drone 'commanders' that give 'kill' orders in the chain of command, journalists and civil society activists, all of whom populate the discursive practice arena of drone discourse. The films that were selected are both fictional and documentary films. On the fiction side, films have been chosen that speak to a complete new genre of film that is becoming known as the drone war film and contains subjectivities such as, for example, the view of drone pilots and intelligence analysts who speak directly to the clashes of norms we seek to probe. On the documentary side, films have been selected that seek to show the very real human rights impact of drone strikes by giving voice to the subjectivities of drone victims. The choice of films therefore in itself reflects the contestations of norms present in the visual rhetoric they represent and the subjectivities to which they give vent. By exploring such visual semiotics, we can complement the textual analysis of selected political speeches and official documents with visual representations of the same discourse strands, discursive practices and issues of societal change that are present in the texts themselves as a semiotic form. This allows us to look for ideological connotations, manipulative discourse practices,

‘us/them’ relational polarisations and other features of the aspects of CDA we earmarked as being of relevance for analysing and probing drone discourses embedded in frames of the ‘war on terror’.

These discourse strands were also assessed further with reference to the role of drone discourses in norm contestations within the context of the UN and its official documents to ascertain whether its robust defence of internalised and institutionalised norms exists. We sought to understand how an international organisation deals with the drone discourse that is embedded in the ‘war on terror’ frame, as well as discourses on the use of drones and technology in peacekeeping.

As the decision to opt for a CDA research method is one that is a subjective method of inquiry, it is important to be aware of any possible bias that may inform the research findings or the design of the research itself. This study, which is inspired by Fairclough’s (1989, 2014) three-dimensional framework, which we address below, is enriched by the work of Van Dijk (2006) on framing and manipulation.

Firstly, in terms of the three-dimensional framework, it is at the micro-level of analysis where we were analytically interested in the choices of words and vocabulary selected, verbs and adjectives, and possible metaphors used. We were especially interested in representations of the ‘us’ and ‘them’, ‘self’ and ‘other’ polarisation. Secondly, at the meso-level of the discursive, we were interested in probing which larger discourses are evoked and utilised (e.g. the war on terror, just war, ethics, legality and morality) to justify the use of drones. Lastly, at the macro-level of contextual ideological factors, we looked at questions such as which historically predicated elements may be used to legitimise drone warfare and, secondly, which powers and or alliances and institutions were being talked about in connection with drone warfare and drone discourses.

As has been indicated, this study’s research design selected the specific policy pronouncement and political speeches that invoke the powerful office of the US President as a potential norm entrepreneur (in an ‘agential’ constructivist sense), and speeches by key policy actors associated with the office and its powers who engaged in justificatory contestations of existing norms in order to pave the way for a new norm of preventive and pre-emptive self-defence. These political elites have equally had a role in shaping policy pronouncements on drones and drone discourses, as their justificatory contestations were met by a forceful UN response in the international community. These are therefore key political speeches and policy documents that marked a moment in time of greater transparency in what has largely remained a covert practice and covert war, leveraging drones and engaging in clear justificatory norm contestation following Iommi (2020). In this regard, it is noteworthy that

President Obama may have used drones more extensively than President George W. Bush, but he arguably did so more transparently and with a deliberate effort to move them out of embedded military optics and rhetoric into greater law enforcement and ‘morally acceptable’ optics from the policymaker perspective. This will become clear from the systematic analysis that follows. This study explores how the questions posed about drones and what is ‘morally acceptable’, let alone legally permissible in terms of existing internalised and institutionalised values, are deeply and profoundly normative, with no easy answers. This study is also alert to the fact that the use of discursive manipulation, highlighted by Van Dijk (2008), brings home the dangers and consequences of manipulative discursive practices in the aftermath of 9/11. It is a fact that drone discourses are embedded in the ‘war on terror’ frame and rhetoric, which, in turn, is of great importance.

As has been mentioned, however, this study moves beyond the role of the United States in engaging in justificatory norm contestation of drone use in seeking to probe norm life stages by looking at the agency of a crucial international institutional actor, namely the United Nations in this regard, and the role it is playing to protect existing human rights law and the UN Charter’s core principles amidst significant challenges, largely wrought by technological change in how states conceive of war amidst rising tensions between the great powers. The United Nations is expressly identified as a norm entrepreneur, as it has at least two institutional settings in which official documents relevant to drone discourses can be identified: the institutional setting of the UN Special Rapporteur on Targeted Killing, and the UN Department of Peacekeeping Operations.

In this regard, this study sought to identify and use two specific types of official documents and speech acts were explored in terms of Fairclough’s three-dimensional framework.

These are:

- Firstly, the various Reports of the UN Special Rapporteur(s) on Targeted Killing and Extrajudicial Execution, and
- Secondly, the Final “Performance Peacekeeping” Report of the Expert Panel on Technology and Innovation in UN Peacekeeping.

By exploring both the drone discourses and ideational frames present in the norm-setting space of the US President, as well as two key arenas of the UN as an institutional norm setter, we are able to use CDA to compare and contrast these speech acts’ differing or similar approaches to some of the drone discourses we have already uncovered in the chapters on the US as justificatory norm contestator through its use of drones for preventive self-defence.

In a critical discourse analysis of drone discourses, it is necessary to pay attention to the context of analysis, the analytical form of analysis and political stances. An effort is made in this chapter to establish the context within which a CDA of drones is conducted to aid the reader in participating in the construction of the meaning of the discourse. In this regard, the proximate context of official speeches by key role players that make policy on drones at nation-state level (in a key state such as the United States, which is often emulated) and official documents and reports emanating from the United Nations (in the form of the work of the Special Rapporteur on targeted Killing and the Department of Peacekeeping Operations (DPKO)), where policies on drone usage are both interrogated and set, creates an apt background context for a discourse analysis of drones.

In this study, which inevitably enters an analysis of geopolitical identities, we look expressly at how discourses are used strategically by presidents and international organisations (IOs) to accomplish specific political ends as far as the use of drones is concerned.

As Van Dijk (1993:252-253) reminds us, a critical approach to discourse analysis sees the actual discourse analyst as an active force in society and politics, where discourse analysts are often engaged in taking specific socio-political stances that essentially critique perversions in the reproduction of dominance and the maintenance of inequality. We therefore can typecast discourse analysts as sleuths who track implicit ideological assumptions or geopolitical discourses. In this regard, CDA keeps a distance between discourse itself and other moments of the social, with its analysis aimed at the mediating links between the two, i.e. the semiotic moment of language use (the discourse) and the wider social and cultural structures.

This is the reason why this study opts to look at specific actors with norm-setting power who engage in political speeches and speech acts for justificatory norm contestation purposes in the form of specific United States presidential and other speeches. Through this set of speeches, the justificatory norm contestation became clear amidst covert wars, but so did the efforts of the United Nations to protect existing, internalised and institutionalised norms in reports that sought to expose rhetoric and reveal existing law. As Van Dijk (2001) once more reminds us, we must link actors that use language to the societal processes in which that language usage has meaning and consequences. This is the only reliable way to grow our insights.

We now turn our attention briefly to the deeper debates on discourse theory and its roots, and the specific contributions of specific key CDA authors such as Fairclough (2014) and Van Dijk (1993), who are the bedrock of this study on drones and drone discourses.

3.1 Fairclough's Three-Dimensional Model

At this stage of the study, we must ask critically what is critical discourse analysis? Critical discourse analysis is an interdisciplinary approach to probing 'discourse' (i.e. talk and text) at its most basic level of definition. It views language (or more broadly, different modes of semiotics) as a form of social practice. CDA is interested in the relationship between language and social construction, and it seeks to probe power asymmetries, manipulation and exploitation, as well as possible structural inequalities. Its origins lie in 'critical linguistics', but it has been applied in a host of disciplines, including international relations. It is an approach particularly well suited to building an understanding of how key norm-setters in the international community talk about, use, and talk about the use of drones. Whilst CDA draws from a variety of social theories, including the work of Marx, Gramsci, Althusser, Habermas, Foucault and Bourdieu – which all probe the ideologies and power relations present in discourse – the theoretical roots leveraged in this study on drones lie in the Lancaster School of Linguistics and the work of Norman Fairclough and Teun van Dijk.

Norman Fairclough (1998, 2001) makes a clear contribution in his work by drawing linkages between language and power and crafting a three-dimensional framework to aid critical discourse analysis. Teun van Dijk (2006) makes a great contribution to our understanding of the link between language and cognition and the role of 'ideational frames', which can also be manipulated by political elites. Others from this school, such as Reisigl and Wodak (2009), makes a contribution with a discourse historical approach that aids us to track and analyse change in discursive practices over time and within different genres. Kess and Van Leeuwen (2001) introduce us to critical discourse analysis that leverages different semiotics and modes of text, visual representations and notions of multimodal critical discourse analysis to move this analytical toolbox from only text to different semiotic forms.

This study focuses on the work of Fairclough due to the nexus it creates between language and power, given how crucial this is in a context in which discourses about drones are also a clear representation of power. This study also draws on Van Dijk, given the fact that justificatory contestation of norms is embedded in a 'war on terror' frame that equates terror and conflict for rhetorical and legal purposes. The work of these key authors creates a point of reference that anchors the CDA of drone discourses and seeks to link back specific selected modes of semiotics (text and film primarily) to structures of the socio-political context. This context has been shaped by the immediate post-9/11 context, the revolution in military affairs, and network-centric warfare in an era of the entry of technology into warfare.

CDA is particularly apt as a tool to examine political speeches and speech acts, to probe the rhetoric and/or ideational frames present in such speeches or contexts (from a constructivist perspective), and possible forms of speech that may be said to manipulate established forms of

‘discourse control’. As will be seen, CDA can use a variety of methods, and this chapter will be explicit about the choices exercised and the possible critiques that could be levelled at such choices.

Norman Fairclough – an emeritus professor of linguistics at Lancaster University – is widely regarded as the father of discourse analysis. His famous work, *Language and Power* (1989), sought to show how power is exercised through language. CDA studies discourse that embraces semiotics, such as text, talk, videos and practices. The framework embraces:

1. Analysis of (spoken or written) language texts;
2. Analysis of discourse practice (the processes of text production, distribution and consumption); and
3. Analysis of discursive events as moments of socio-cultural practice.

This three-dimensional framework operates at the macro-, meso-, and micro-levels of analysis. Jorgensen and Phillips (2002: 68) represent Fairclough’s three-dimensional model graphically as follows:

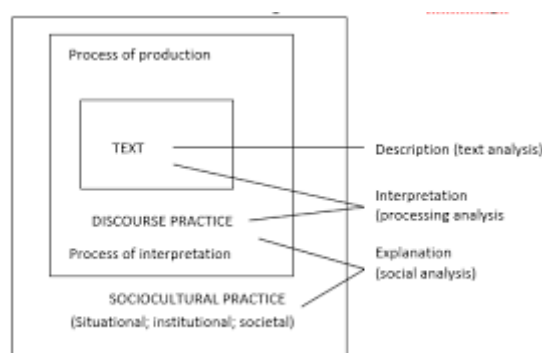


Figure 3: Fairclough’s Three-Dimensional Model of Critical Discourse Analysis

Source: Jorgensen and Phillips (2002:68)

As can be seen from the representation above, the model works at the level of text (speech, writing, visual images or a combination of these); discursive practice (a process that involves the production and consumption of texts); and social practice (how patterns are formed).

For analysts of discourses, the challenge therefore is to focus, firstly, on the linguistic features of text. Secondly, they must probe the processes related to the production and consumption of text (referred to as discursive practice), and lastly, probe the wider social context to which the specific communicative event belongs (referred to as social practice). The first two of these enquiries are inevitably interactive, whilst the third requires aspects of social and cultural theory to be incorporated to assist at the explanatory levels of analysis. Important components of this framework include ‘interdiscursivity’, which refers to different discourses and genres

articulated together in a communicative event, and ‘intertextuality’, which refers to all communicative events that draw on earlier events in which texts effectively function as ‘links’ in intertextual chains (Jorgensen & Phillips, 2002:68). The aim of this CDA of drone discourses is crucially of an exploratory nature and, where possible and assisted by theory, an explanation of norm life cycles.

Fairclough’s line of CDA study is sometimes referred to as textually oriented discourse analysis (TODA) to differentiate it from forms that also highlight other semiotics and are more multimodal, such as the work of Van Leeuwen. TODA is concerned with the mutual effects of the properties, sociolinguistic speech genres and formal sociological practices of formal linguistics texts, or what has famously been referred to as the ‘three-dimensional’ framework.

Fairclough (1989), in the original edition of *Language and Power*, is interested in how social practices are shaped and moulded by discourse and the impact, in turn, of these discursive events on social practices. In a subsequent revised edition of *Language and Power*, Fairclough (2014) looks deeper into these interactions between language and social institutional practices and at the ‘wider’ political and social structures. Key concepts emerge from this updated version that are important for the purposes of this study on drone discourses. The crucial one concerns the notion of ‘synthetic personalisation’, which seeks to account for the linguistic effects providing an appearance of direct concern and contact with the individual listener in mass-crafted discourse phenomena, which in this study pivots on specifically selected political speeches and official documents.

We now turn to Fairclough (2014:48) for a brief, revised definition of CDA: “CDA is a normative critique of discourse, leading to explanatory critique or relations between discourse and other social elements of the existing social reality, as a basis for action to change reality for the better.”

In this, sense CDA is not only a critique of discourse, but also a critique of the existing social reality that probes relations between discourse and other elements. The objective of such critique is to change reality for the better. CDA therefore is a form of dialectical reasoning. Fairclough’s framework was applied in this research on drones to look at specific ways in which discourses are operationalised in political speeches, core texts and film, and this formed the bedrock of the study’s efforts to conduct a normative inquiry into how we talk about drones and what this may signify for how our world talks about war and peace in the 21st century, and what role drones will play in this process.

Fairclough (2014) reminds us that power is exercised and enacted in discourse and that there are relations of power behind discourse. He creates a specific framework that allows us to think about longer-term tendencies and consequences of discourse struggles. This

framework, which draws on the work of Habermas and Foucault, allows us to probe whether constraints on contents, relations and subjects are to be imposed through inclusion, or coordinated through communication (Fairclough, 2014:99).

In terms of the framework, if there are constraints on contents, the structural effects will be felt in knowledge and beliefs. If there are constraints on relations, the structural effects will be felt in social relationships. If there are constraints on subjects, the structural effects can be felt in social identities. In this study on drones, we are particularly interested in probing specific speech acts. In analysing specific speech acts, which really brought the first and limited degree of transparency to much of the drone wars that were being escalated during the Obama presidency, this study will look at the texts themselves, as well as the context in which they were delivered.

Up until this stage, most drone discourses have been absent from or obscured from public view and officially denied due to their largely covert nature. This is the specific motivational reason why these speeches were selected specifically, even though they represent a specific moment in time of a single Presidency that enables us to delineate some of the contours of drone discourses and why they matter from a normative point of view. In this regard, we shall pay attention to schemata, frames and scripts that assist in the interpretation of points, as urged by Fairclough's work to aid our analysis. This helps us to view and identify patterns and, once we have done so, to dispense with much of the details in speeches and texts and look for the familiar, skeletal frames that work on long-term memory and recall. It is important to link back to specific, detailed elements of Fairclough's work and analytical framework building blocks, as they are crucial in providing the necessary tools to dissect the political speeches and varied speech acts that are identified and analysed in subsequent chapters of this study. According to Fairclough (2014), there are three questions that can be asked about a discourse and that will be asked about the selected drone discourses and speech acts identified in this study – these are questions of context, discourse type(s) and questions of difference and change.

This is also the level on which we probe whether the discourse being studied is normative or creative, and whether it contributes to sustaining or transforming existing power relations. A study of this nature on drones clearly falls into normative terrain and has significant scope to alter and completely transform power relations – especially in a world on the edge of returning to great power politics.

Given the choice of the ideologically loaded set of discourses on drones that are being probed in this study, this specific CDA of drone discourses is a form of critical social research. The task of critical social research is to pursue an agenda that is determined by and shifts

depending on the problems that people have to deal with in a rapidly changing and ever-evolving world marked by ever-growing complexity and unprecedented levels of technologisation of most aspects of modern life. The world stands on the cusp of significant changes as drones make their usual way from military to civilian usage, with concomitant growing pains in discourse, politics and international relations.

This study hopes to begin exploring part of this journey by investigating some of the discourses, possible shifts in discourses and possible new norms at play that are a consequence of these rapid shifts in the 21st-century airspace and military and civilian life. This study uses and is mindful of Fairclough's macro- (social practice); meso- (i.e. discursive practice); and micro-levels (i.e. text) of analysis by focusing on the use of specific frames and/or rhetorical techniques in the speeches of United States President Barack Obama that deal with drones, along with key documents emanating from the United Nations that address drones (i.e. from the UN Special Rapporteur on Targeted Killing and the United Nations Department of Peacekeeping Operations (DPKO) at the micro-level of analysis. It probes the institutional dynamics of 'who' is producing the texts and for which target audience at the meso-level of analysis by engaging in discourse practice. It was mindful of intertextual and interdiscursive elements at the macro-level of analysis to contend with the broader societal currents of network-centric warfare, the revolution in military affairs and the dynamics of the war on terror within which much of the drone discourse lies embedded.

Fairclough (2009) himself draws our attention to the impact that the war on terror has had, and it is of particular relevance to this study on drone discourses with the concomitant questions from various ideational frames and 'manipulations' that are arguably in evidence in this context. He argues that there is an effort to legitimise a US claim to permanent hegemony, and that this is affected by claiming that the US is a 'force for good' that operates based on 'values'. He flags his concern that the way neoconservative elites have used the term 'freedom' has blurred the distinction between free markets and political freedom, treating them as much the same and nearly indivisible. He labels this neo-conservative version of globalist strategy and discourse an embrace of the 'war on terror' frame, which has successfully been disseminated globally via the global communications industry. In his concluding chapter on language and globalisation in the revised *Language and Power*, Fairclough (2014:252) reveals some of the explicit normative underpinnings of his work, including how CDA is a deep resource when language critique becomes an important part of struggles and normative struggles. He believes firmly that the current primary struggle that the world is engaged in is one against neo-liberalism. In leveraging Fairclough's framework, it is important that this study works and proceeds mindful of this bias. Fairclough, Mulderrig and Wodak (2011) attest to the fact that CDA has become a well-established field in social sciences, despite not being a

distinctive academic discipline with fixed research methods. They remind us that it is best to view CDA as a problem-oriented interdisciplinary research movement, united by a shared interest in semiotic dimensions of 'power, injustice, abuse, and political-economic or cultural change in society'. Despite this, Fairclough (2001) cautions us not to try to treat CDA as a 'toolbox' of transferable skills and points to its dual nature as both theory and method. Perhaps it could be most accurately described as a theoretical perspective on language and semiosis and their place in social processes. As this discourse analysis of the way we talk about drones and the norm challenges they represent, it also probed the embeddedness of drone discourses in the 'war on terror' frame. Therefore, it is important to include the crucial work of Teun van Dijk (2006) on discourse analysis, the role of cognition and 'ideational frames' and 'manipulation'. His approach to CDA builds bridges that connect cognitive theories with linguistics and social theories.

Van Dijk's three-layered ('triangulated') approach to discourse, cognition and society is helpful for analysing drones and pressures on internalised and institutionalised norms caused by the rise of drones and technological warfare. The addition of the cognitive dimension facilitates and helps us to understand how broader social phenomena are reinforced and strengthened by popular, everyday discourse. Some critics, however, have argued that Van Dijk's contribution is, of necessity, limited as it focuses on the reproduction of ideologies and/or hegemonies and not on their change or transformation.

In a thoughtful piece that is relevant to the ideational frames that are present in this study in the context of a post-9/11 war on terror, Van Dijk (2006) sensitises us to the use of discourse manipulation that works on the basis of othering that praises 'our good things' and slates 'their bad things'. Van Dijk (2006:359) emphasises that manipulation is a form of discursive power abuse which, in a broader semiotic sense, may also be exercised in varied semiotic forms that can embrace pictures, photos, movies and other media. In the section below, we shall see how true this is with reference to photographic representations of boring drone imagery between 2008 and 2011, which were carefully manipulated to quell any possible public backlash against drone use. Van Dijk (2006) uses his triangulation of the social, cognitive and discursive to explore manipulation. Manipulation is a social phenomenon that involves interaction and power abuse between groups and social actors. Manipulation is cognitive because it implies the manipulation of the minds of participants. It is discursive as a semiotic phenomenon, as it is exercised through text, talk and/or visual images. According to Van Dijk (2006:361), it should be clear that some 'symbolic' elites, such as politicians, journalists, scholars and writers, enjoy preferential access to the mass media and public discourse, making possible manipulation easier. It therefore is important to take cognisance of the fact that manipulation has many dimensions and semiotic forms and operates at different levels,

whether in nation states, international organisations, within popular culture or within broader transnational civil society. It stands to reason that we can view manipulation, socially speaking, as a discursive manifestation of the power of elites and elite reproduction, which it can be argued are against the interests of dominated groups and clearly produce and exacerbate social inequality. According to Van Dijk (2006:369), the overall objective of manipulation is not of personal mental models, but of control of the shared social representation of groups of people, as their shared social beliefs can structure their words and actions in many situations over long periods.

The question that this study explores through the theoretical prism of norm contestation is the extent to which alternative pressures may be directing the world to accept greater violence through the straw-like visual stare of drone imagery. By way of concluding his excellent CDA of largely controlled, boring, visual images of drones between 2008 and 2011, Ohi (2015:15) shows how important it is to include the analysis of visual rhetoric and this multimodal dimension in any CDA, given the power that visual images have on gripping our thoughts, stirring our feelings and igniting our passions at the level of popular culture. These are, beyond institutions and nation states, the critical arenas in fights and contestations over norms, whether long established or newly created.

In this study we see the public become anaesthetised by boring visual drone imagery. In Chapter 5 we shall see how the rise of the drone war film genre has galvanised pro-drone sentiments by bringing the public right into the drone cockpit with the pilots, as it were, thereby creating an associative emotion, if not complicity in their actions and the modern conduct of war. These issues lie beyond theoretical debates and lie at the very core of humanity in the 21st century.

We try to gauge whether the representation of the drone in drone war films will add fuel to the fire of justificatory arguments that contest well-established international norms, or whether the converse is true. This is done by looking a bit deeper at these issues in Chapter 5 through exploratory analytical lenses. If the converse is true, and the public is not fully enamoured or persuaded by this new film genre, we show whether renewed thoughts, feelings and actions (engaged in by the documentary probing of the actual effect of drone strikes and the real death and bodily harm they inflict) may still swing the pendulum back toward a more critical public stance to drones and the violence that they theoretically can unleash on the whole of humanity in an era of autonomy. This would aid in securing, protecting and restoring greater levels of democratic oversight over modern technological warfare, which looks frightfully like Clausewitz's absolute war. It would also aid in protecting the crucial and necessary global

edifice of human rights protections that are being contested by drone strikes and the rise of autonomous weapons systems in modern war.

Having demonstrated the key contribution that critical discourse analysis can make as the core research method in a qualitative study of the phenomenon of the drone, we now turn to a closer analysis of the frames and rhetorical strategies that informed the Obama administration's efforts to bring transparency to drone wars and to bring to the surface some of the controversial policies of United States drone use that placed this key state at the centre of the justificatory contestation of well-established international norms.

Chapter 4

Analysing Political Speech Acts and Drones: United States Justificatory Norm Contestation and Drone Norms

At the outset of this chapter, two salient points need to be made. Firstly, the United States Presidency is a unique constitutional institution, and therefore a norm entrepreneur in its execution of foreign policy and a key actor on the global stage. Secondly, the use of the ideational frame of the 'war on terror', following Van Dijk (2006), has a long history across both Democratic as well as Republican presidents.

This chapter is shaped by an effort to comprehend how state elites exercise influence and power over international processes. It probes how the elites in the Obama administration in the United States sought to exert power and influence over debates on drones and the use of drones that have a normative impact. What is important to take account of is that such use of language and the exertion of power took place in the context of the 'war on terror'. This frame was as much a part of the Bush era, and pivotal to the Bush Doctrine of the post-9/11 National Security Strategy, as it formed part of the Obama era in both legacy terms and in terms of seeking changes to it through its own National Security Strategy. It therefore is important, following Fairclough's (1989, 2014) model, to look at these speeches in detail within the context in which they were drafted and delivered and to probe their discursive practices.

It is noteworthy that these speeches were mostly delivered in a university context to elites by elite opinion formers, as this forms a crucial background to the production of the text, as well as the area of discursive practice in which the text was consumed. This is noteworthy for this study on drones and drone norms, as they were aimed at opinion formers. We start probing what some of the performative effects may have been to understand how reality was constructed by these specific political speeches, which were aimed at legitimising drone use to an elite audience that could, in turn, also have had platforms to circulate these arguments.

4.1 The Context and Ideational Frames that Inform Speech Acts on Drones and Contested Norms: The 'War on Terror' and Frames of Legitimation for Drone Strikes

The 'war on terror' has a long history in United States presidential rhetoric and being used in terrorism and counterterrorism strategies. We must dwell on this, as any discourse on drones falls into this broader metanarrative of the 'war on terror'. We must be aware of this backdrop and how it shaped the policy and rhetorical responses of different United States presidents in their capacity as norm entrepreneurs, and what the implications are for this study, which focuses on the Obama period for the purpose of probing drones. This metanarrative backdrop of the 'war on terror' structures much of the discursive practice we analyse in this chapter. As

drones stand in a long line of counterterrorism strategies, we need to dwell briefly on some United States presidential rhetoric and some key issues before embarking on the analysis in this chapter.

Meadows (2007) reminds us that human social interaction is a site of political struggle for resources and that political elites exploit language to construct and reproduce asymmetrical and oppressive hierarchies of power. In the 'war on terror' frame, we see many cases of 'othering' and of 'us' and 'them' polarisation through the application of rhetoric that creates a specific backdrop for normative contestations that affect drones, as this allows the human rights of those who are 'othered' to be undermined. We see much of this in the analysis in this chapter, where those who are 'othered' are discussed as legitimate targets for different reasons. The targeter and the targeted reflect a particular 'us' and 'them' relational pairing of which we need to be aware in analysing the speeches in this chapter.

Hulsse and Spencer (2008:571) flag the use of metaphor and seek to show how the metaphors used to describe Al-Qaeda moved from war to crime (and, as we shall see, Al-Qaeda operatives are often referred to as 'murderers' and people who pursue a 'murderous ideology'). We therefore see a shift from language that treated Al-Qaeda as a military organisation during the Bush era, to language that refers to Al-Qaeda as a criminal organisation. This is reflective of a shift in nuance from the war rubric of the Bush era to efforts to move the counterterrorism frame to a rule of law rubric under the Obama presidency. This rhetorical and metanarrative shift has further paved the way for an expansion of drone use in pursuit of 'murderers' with no procedural rights, and has also solidified the norm contestation probed more deeply below. It is important to pay attention to these discursive practices of reality construction, as they have clear implications for how we seek to analyse discourses about drones, given how rhetoric has served to blur the lines between war and peace on the one hand, and between war and policing on the other. Hulsse and Spencer (2008:576), like Fairclough (1989, 2014), emphasise that language can be deployed to maintain power and can be used to achieve several political goals through the use of metaphors and other techniques that take centre stage in such processes. They argue that the 'murderer' metaphor has allowed policy action and policy responses to move between the military and law-enforcement domains. This allows scope for drones to be used in targeted killing under a law-enforcement rubric, and not just under proverbial 'war talk'. Rashidi and Souzandefhar (2010:65) isolate the Bush Doctrine and President Bush's speech on 7 October 2002 as key moments when the 'war on terror' frame was set in motion and how the Iraq War and its founding authorities created a particular reality of conceptual, linguistic and political change. As such, this represented deep normative shifts related to preventive or pre-emptive war and the use of force. These sets of developments are the reason why it is crucial to incorporate

the CDA work of Van Dijk (2006) in the backdrop of this study's approach, given his unique interdisciplinary approach that reminds us to incorporate linguistics, sociology and political information in nuanced ways to assist us to see, analyse and take cognisance of possible manipulation or ideological stances. This is where Van Dijk's great complementarity with the work of Fairclough (1989, 2014) used here is located.

Graham, Keenan and Dowd (2004) use a discourse historical approach to highlight the importance of President Bush's declaration of a 'war on terror' that shaped a broader metanarrative for over a generation. They point out that these rousing rhetorical calls are to be found in both the Bush Doctrine itself, and in the President's speech in Congress that declared war on Iraq. Epstein (2010) points out how the United States has talked extensively about the 'war on terror', terrorism and drones, and how this 'talk' through speech acts is a crucially important factor given the role of the United States as an influential norm-setter state in the international community of nations. He also points to the fact that this practice of 'talk' by the United States stretches across administrations and presidents with a fair degree of conceptual consistency. Fisher, Dugan and Chenoweth (2019) explore whether United States presidential rhetoric affects asymmetric political violence. They argue that such rhetoric does indeed do so and that it also can influence conflict with specific terror groups, given how political communication tends to be responsible for framing terrorist actions and counterterrorism policies. This is specifically true where governments use the full might of their constitutional powers to pursue counterterrorism strategies, and use language and frames to match such actions. Their work rightly brings our attention to the head of the executive authority – the President – in looking at remarks on terrorism and counterterrorism and how the different United States administrations have seen consistency in some key themes, regardless of the political hue of the administration in power. This is something we explore below in terms of the consistencies and nuanced differences between the Obama- and Bush-era drone strike policies as a feature of their counterterrorism strategies.

As we shall see, and drawing on Fisher *et al.* (2019), the Bush era's responses to terrorism in rhetoric and practice embraced the 9/11 rhetoric and action of an 'act of war' and was firmly entrenched in the 'war on terror' frame, which dealt with a global jihad being waged and spoken about expressly and extensively. In their work, they show how the Obama White House maintained much of the Bush-era responses to terrorism, but made a deliberate and active effort to move from 'war' rhetoric to 'law enforcement' rhetoric, as we analyse below. It should be clear that, as these authors also conclude, what the United States says and does matters globally. Research ought to be geared to understanding and grappling with both the intended and unintended consequences of the actions of such an important norm-setting state, especially when it places pressure on long-standing internalised and institutionalised norms

through its words and actions, as it did with drone strikes. The work of McCrisken (2011:781) helps us to better understand these continuities between the Bush and Obama eras that are germane and relevant to this study on drone discourses and drone norms. He argues that even though President Obama stepped back from much of the stronger rhetoric of the 'war on terror' frame – associated closely with President Bush – he still deepened the United States' commitment to counterterrorism of a robust form during his own term in office, which is reflected in his own and his administration's speeches (see the analysis below). This includes expanding the use of drones whilst trying to draw the Iraq war to a close. McCrisken argues that not only was Obama's own 'war against terrorism' in keeping with some of the key tenets of his predecessors, but it was equally problematic and continued to place pressure on norms, despite claiming to be more morally acceptable, focused and effective rhetorically speaking.

As we have noted, CDA addresses the relational polarisation of 'us' and 'them', and this evil 'other' becomes rhetorically present in presidential rhetoric in the war on terror that straddles the Bush and Obama eras. This evil 'other' is juxtaposed with what the United States stands for and that which requires protection from 'murderers', even if they were also to be Americans themselves. For example, both presidents Bush and Obama delivered crucial speeches that used the 'us' and 'them' relational polarisation, which created space for the targeted killing programme and drone strikes by 'othering' those targeted to be killed. Reyes (2011) looks at the speeches of presidents Bush and Obama related to Iraq and Afghanistan respectively to underline the justifications for their military presence in these nations in the 'war on terror'. He identifies five categories of legitimisation strategies present in these political speeches, namely (i) motional categories, (ii) categories that create hypothetical futures, (iii) categories of rational appeals, (iv) categories that contain the voices of expertise and (v) categories that craft linguistic appeals. He shows how both presidents rhetorically leveraged the fact that 9/11 set the base for the development of a 'war on terror', which created a fearful enemy. Throughout this entire study, we probe the impact this has had on justificatory norm contestations. These processes are also at work in the creation of hypothetically fearful futures, which create space for politicians to use language and rhetoric in exercising their power to deflect attention from them and questions related to their decision-making. In showing how the conflicts in Iraq and Afghanistan clearly differ, Reyes (2011:803) draws attention to the styles of presidents Bush and Obama and how they differ, despite the fact that they use similar legitimisation techniques and arguments to justify their actions, and that they wielded considerable executive authority to do so.

Finlayson (2004) makes an impassioned plea for political science to learn from the rhetorical turn in other social sciences, and to develop ways to analyse the use of rhetoric, argumentation and political or policy discourse to grapple with ideas on the role of rhetoric in

furthering ideational frames and discourses. This appeal lies at the very heart of this study's approach to grappling with drone discourses and the norm contestations they signal. In selecting very specific political speeches, this is exactly what this chapter sets out to do below by bringing together thoughts as expressed in speech acts or discursive practices of crucial policymakers in drone policy formulation in the United States. In the subsequent chapters, the same issues are flagged and analysed from the perspective of key players in the United Nations' human right structures. In this way, we seek to fill the ideational with the political and grapple with how the world speaks about, uses, and speaks about the use of drones in the 21st century and what this may signify for international norms. In this exploratory study, we seek to make some of the norm contestations more visible by looking at language.

Sarfo and Krampa (2013: 378) use Van Dijk's (2006) 'frames' to analyse selected speeches on terrorism by presidents Bush and Obama. They conclude that both presidents leveraged language and projected terrorism negatively, while projecting anti-terrorism positioning by carefully selecting emotionally charged language and expressions. They highlight that speeches on terrorism became more widespread in the presidencies of both Bush and Obama, and argue that it stands to reason that this would be the case given the consequences of the 9/11 attacks and the United States' retaliation for these attacks, which indirectly also birthed notions of self-defence as a new norm. In a similar vein, Kahn (2015) probes American policy and news cycles on drone strikes by probing American presidential speeches and United States newspapers to show the identity constructions and 'othering' that took place and the specific discourses that were built around drone strikes. We now turn to a more considered analysis of the different frames of legitimation used to justify drone strikes, before turning to analysing specific speech acts using Fairclough's three-dimensional framework and analysis of key themes across speeches to illustrate the points that are being raised about the use of rhetoric and its role in norm contestation.

As Goldsmith (2012) observes, there were nuanced differences between President Bush and President Obama, and a bit of wriggle room between them as far as their approaches to counterterrorism were concerned. According to Goldsmith (2012:5), "[t]he bottom line is that it copied most of the Bush counterterrorism program as it stood in January 2009, expanded some of it, and narrowed it a bit".

It is this nuanced difference we seek to pursue in this chapter regarding the CDA of drones and drone norms, as the Obama administration is described as being especially fond of covert operations, robots and drones as effective and 'clean' tools of anti-terror campaigns. An interesting contextual factual point to take note of is that many of the initial Bush-era counterterrorism policies were vetted and altered by the different check-and-balance systems

(including the courts) before Obama became President. This allowed President Obama some scope to embrace many of the Bush-era policies, barring the more egregious features he had railed against as a candidate. Once in power, however, President Obama and the decisions of his team would once more test some of the checks and balances on drones, drone policy and executive decision-making, including the formulation and release of the Presidential Policy Guidelines, which we deal with in this analysis.

At a historic level, President Bush emphasised his untrammelled power as Commander-in-Chief during war, and his use of strong rhetoric to bolster these credentials was unprecedented in American war-time history, often resulting in suspicion of his motives. In contrast, President Obama's rhetoric was more measured and cautious, often highly personal, and emphasised restraint and law-abiding approaches in seeking to display a contrast with his predecessor and his policies of executive overreach. He even went so far as dropping much of the metanarrative of the 'war on terror' frame, whilst maintaining some of its core strategies and tactics. We do, however, see a bit of a bipartisan approach to counterterrorism questions, as some of these practices were solidified, as were the discursive practices about them and rhetoric regarding, for example, the use of drones for targeted killing, as this chapter will show. Selected speeches that form the bulk of the dataset to follow, and its analysis, reveal much of the power that Fairclough (1989, 2014) urges us to recall lies buried below the use of language, and that we must use our analytical tools to uncover and probe. The first such speech is a crucial speech by Harold Koh, then State Department Legal Counsel. Others are speeches by John Brennan, who served the Obama Presidency in various roles, and by President Obama himself.

It is this legalistic, technical and moral language usage which this chapter of the study on drones and drone discourses and norms will explore, while being mindful of the biopolitical dimensions of the issues of drones, the bodily harm they cause humans and the impact they have on human rights. We are mindful of the fact that such language usage can also serve to carry a thematic element of 'dehumanisation' and 'othering', which is a marker of modern and contemporary war or what has been termed 'new war' or 'asymmetric war'. We see from the Brennan speech below that the killing of Osama bin Laden became a leitmotif of the muscularity of the Obama counterterrorism approach, which moved between the military and law-enforcement paradigm in an asymmetric war mode. We now turn to a brief analysis of the legitimisation frames at stake in the speeches we analyse below in order to create the contextualisation of the environment in which they were shaped, and the nuanced differences regarding drone killings and norm contestation that they represent.

In constructing this chapter, it is evidently informed by an effort to understand how state elites – the Obama-era elites in the United States in particular – sought to exert influence over debates on the use of drones and strategies for their legitimization. This occurred in the context of the ‘war on terror’, which formed a consistent metalevel narrative that informed counterterrorism strategies between these two presidencies, and arguably still does due to policy path dependencies that linger. In following Fairclough (1989, 2014), it is imperative to look at the speeches analysed here not in isolation from the prevailing context, and to do so mindful of shifting frames that served the purposes of legitimating drone use rhetorically in order to engage in justificatory norm contestation of the use of force and human rights norms through drone usage.

As Brunstetter and Jimenez-Bacardi (2015) have pointed out, we see clear rhetoric by the United States administration arguing that drone strikes respect human rights. They argue rhetorically that the United States’ position has moved through three frames of legitimization – strategic, legal and normative. On a nuanced level, this has been a move from the strategic-legal framework (which was focused on the strategic objectives of the United States that required a permissive view of international humanitarian law (IHL)) to the legal-normative framework (which sought to play up the principles of just war theory, restrain the drone programme and place new emphasis on the relevance of IHL). We will see this emerge clearly from the analysis of the different speech acts and discourses selected in this chapter. We then shall analyse, in Chapter 6, how this set of argumentation contrasts with another set, which placed strong and non-negotiable emphasis on a position focused on defending IHRL and IHL, and crucially the right to life against any justificatory norm contestation that seeks to subject this right to indiscriminate drone strikes.

It is important to sketch this backdrop before undertaking a specific, focused analysis of selected speech acts, as Brunstetter and Jimenez-Bacardi (2015) remind us expressly that successful ‘rhetorical coercion’ can only be achieved through skilful framing. It therefore is clear that this is exactly what is at stake in the justificatory contestations of drone norms we see in the rhetoric deployed by the administrations of presidents Bush and Obama on the one hand, and the human rights community on the other. At the strategic frame level, we find ourselves in the terrain of rational choice and utility maximisation of the national security interests of a powerful state. At the legal frame level, we are engaged with questions of international law and what is applicable when internalised and institutionalised norms must resist pressure. At the level of the normative frame, we are engaged with what is regarded as true, reasonable, natural and just and good in the context of dynamic norm life cycle spaces. Brunstetter and Jimenez-Bacardi (2015) point out that the Obama era (in contrast to the Bush Doctrine’s ethics of war) placed emphasis on the last-resort nature of war and any rhetoric

that uses war as a direct proxy for counterterrorism efforts. They argue that President Obama clearly shifted toward a return to the principles of just war theory, despite increasing drone strikes, in response to clear pressure from the international human rights community in 2012 to create moral principles to govern and guide the United States' drone programme. Whilst such assertions cannot be sustained without full empirical data on drone strikes on a strike-by-strike basis, we can see this reflected in rhetoric that we can peel back – as the analysis below – informed and guided by Fairclough's (1989, 2014) model – seeks to do.

The 'revisited' approach of the Obama presidential era to the just war matters greatly, as it has direct implications for human rights in that it limits targeting practices and stands in contrast to the strategic paradigm pursued by the Bush administration. It does, however, still clearly reinforce the legal frame of 'war' as a legitimate frame that detracts from human rights as it moves it the needle further away from the law enforcement paradigm that focuses on the right to life.

According to Brunstetter and Jimenez-Bacardi (2015:181):

... appealing to just war principles as part of a rhetorical strategy paints human rights groups into a corner by using the goal of maximising protection of human rights in a time of war as a rhetorical frame to disarm criticism.

This approach allows the United States as a norm entrepreneur to have its proverbial cake and eat it too: it can argue that it is doing all that it morally can to secure civilian life, whilst simultaneously affirming its right to use force through drone strikes to pursue and achieve its broader strategic goals and objectives. As we shall see in Chapter 6, the response to such assertions has been to take clear issue with both its *jus ad bellum* approach to Article 51 of the UN Charter and its *jus in bello* effect as far as IHRL and IHL as legal paradigms are concerned. The international human rights community goes further still to weigh the effect of living under drones on the right to life broadly speaking, as we shall see. As the authors point out in their analysis of frames of legitimation, and as we can see from the detailed analysis that is to follow below, the Obama administration tried to balance human rights (normative frames) with national security utility maximisation as a key state (strategic frames), whilst trying to adhere to long-established internalised and institutionalised legal norms (legalistic frames).

According to Brunstetter and Jimenez-Bacardi (2015:181):

The Obama administration has used a strategy of rhetorical coercion to navigate this tension in the public sphere.

We see that the nature of the Bush era's covert drone campaign obviated the need for public speeches to explain anything, and the United States did not need to nor did it seek to publicly

account for or use any legal or normative justifications for its actions that placed core internalised and institutionalised norms under pressure. As the Obama administration admitted the existence of the programme publicly, and escalated it, the need for transparency and explanation grew exponentially and public attention expanded. The initial covert drone wars and official silences solidified targeted-killing drone practices. This marked a shift in the political mindset of key policymakers. Following 9/11 and the work of the 9/11 Commission, the CIA was given broad powers and the passage of the Authorisation of the Use of Military Force allowed even greater scope for different actions that policymakers believed could be pursued to counter terrorism under IHL circumstances. The CIA and Joint Special Operations Command therefore already had had and had exercised considerable powers by the time the Obama era dawned. We see a step-change with the arrival of the Obama administration in not only using more drones, but shifting from strategic-legal frames to normative-legal frames and trying to recapture the essence of the just war theory that views wars as a last-resort question and not a tool.

More drone strikes meant greater visibility, which required public argumentation and persuasion and rhetorical defence. There was growing pressure from the international human rights community, as we shall see in subsequent chapters. Brunstetter and Jimenez-Bacardi (2015) emphasise the critical role the initial covert war years posed for efforts to create justificatory norm contestation on use of force norms. According to them (Brunstetter & Jimenez-Bacardi, 2015:183):

The initial period of plausible deniability seemed to create the space for new norms regarding the use of force to emerge, which impacted the way in which human rights came to be understood.

As we have seen, the Bush Doctrine ultimately formed the basis of the targeted killing practices that drone technology enabled. In this sense, the United States drone programme slotted into a paradigm of norm contestation about a new norm of preventive (or even pre-emptive) self-defence. This was expanded with the entire world as a potential battlefield. These developments held enormous implications for human rights and long-internalised and institutionalised human rights norms. As we have seen in the speeches in this chapter, the United States opted to seek publicly and rhetorically to legitimise and defend its drone programme. We have seen how the roll-out of a set of speeches (analysed below) asserted and employed just war theory and language – exactly as President Obama’s Nobel Peace award speech had done as early as 2009 following his election in 2008. This marked a clear desire to break with some of the more deeply concerning and disconcerting aspects of the Bush Doctrine. This shift also showed itself in the tenor of the Obama administration’s 2010

National Security Strategy, which sought to differentiate itself from the Bush Doctrine. His formal revelation of the existence of the drone programme in 2012, resulting in its *de facto* declassification, formally marked the shift to the legal-normative frame. The defence of the drone strike programme was present in a specific set of speeches of the following role-players:

- State Department legal advisor Harold Koh,
- General Counsel for the Department of Defence Jeh Johnson,
- Attorney-General Eric Holder,
- CIA General Counsel Stephen Preston, and
- John Brennan, National Security Advisor to President Obama

Of these speeches, those of Harold Koh, Eric Holder, John Brennan and President Obama himself are by far the most important analytically speaking, as they used similar themes, justificatory arguments and efforts at persuasion. They are addressed in the analysis below. The just war theory principles we see represented in these speeches about drones are also powerful rhetorical devices that emotionally trigger universal principles portraying the United States war as not only a legal war, but a deeply moral one. President Obama's own speech at the National Defense University in 2013 made it clear that he considered the 'war' he was engaged in as United States President at the apex of the executive as a just war. Emphasis was placed on last-resort overtures and compliance with proportionality requirements. John Brennan, then Deputy National Security Advisor, solidified what Brunstetter and Jimenez-Bacardi had termed the legal-normative frame of President Obama's drone wars. His speech crucially set out to define the use of drones as legal under an IHL remit, ethical in terms of just war theory, and wise from a strategic perspective, as it minimised various costs. Whilst the arguments offered much of the same strategic-level frames, the use of the just war rhetoric moved the frame towards the normative legal. Brennan's speech spoke to the United States taking core cognisance of IHL and restraints implicit in just war theory, whilst President Obama's own speech at the National Defense University chose to return to just war theory as a core rhetorical rubric, as it is a framework that solidifies core concepts of IHL such as distinction, proportionality, military necessity and imminence. These new standards resulted in more painstaking decision-making under the legal-normative frame than had previously been the case. They were ultimately formally solidified in the Presidential Policy Guidelines document that 'bureaucratized' targeted killing. These shifts saw the Obama administration painstakingly engage in persuasive arguments that it was not only waging a moral war, but that it was doing so with considerable restraint of executive power. Post-2012 there were some reductions in drone strikes and civilian casualties, and a far reduced appetite for 'signature strikes' that were far more indiscriminate in their effects. What these nuanced normative and

rhetorical shifts had not diminished, however, was the United States' persistent justificatory contestation of the use of force norms in Article 51 of the United Nations Charter. In this regard, the just war rhetorical resurrection may conversely have contributed to crafting verbal cover for persistent notions of preventive self-defence. These shifts are precedent-setting and they are all available for other states to emulate in a world of drone proliferation, with grave consequences for international peace and security.

As noted in Chapter 2, we are interested in discursive features of the justificatory norm contestation of preventive war, which was a direct reaction to the attack of 9/11 on the United States, the role of specific argumentative and persuasive rhetoric used to justify drone strikes and the shift in values and norms of war that they represent. We specifically focus on speeches by President Obama and key policy-makers of his administration as norm entrepreneurs, as there are, in a sense, two distinctive periods of drone wars – a fully-fledged covert period and subsequently a decidedly clear approach that sought to introduce transparency and argumentation aimed at swaying opinion in favour not only of the use of drones, but the reasons why this made strategic, political and economic sense, despite the sea change in values that they represented for a country (the United States) that traditionally always was a banner holder for the cause of human rights globally. We look at the role of the United States Presidency, which has a long history in the use of rhetoric in the war and counterterrorism fields. We do so in order to grapple with and understand some of the discursive practice dynamics at play. Such discursive practice dynamics are at issue in the norm contestation we observe in the broader context, in which the various speech acts we probe were crafted as context and can also speak to a contestation of norms.

As Keene (2015:vii) has highlighted, knowledge gaps exist with respect to drones and drone usage and their success or failures. This urges greater transparency if their use is ever to gain proper public traction and support. As she points out, and we shall see in the analysis that follows, the main legal justification used by the Obama administration for armed-drone use is self-defence and the contestations we have already described about Article 51 of the United Nations Charter. As we have seen, this is a core meta-narrative theme in our analysis that is ever-present in the different speeches that we look at in this and subsequent chapters. There are other themes that she highlights that we need to be alert to as we approach the speeches that map perfectly onto the justificatory norm contestation that we have already seen in Chapter 2 of the study. Supporters of drone strikes opt to emphasise that drone strikes, and drone wars, are legal, ethical and wise. Opponents of these drone wars make arguments that these are weapons systems that are frowned upon by international humanitarian law and international human rights law due to the indiscriminate killings and deaths of civilians. The legality of drone strikes is contingent on the sovereignty, proportionality and legitimacy of the

methods used for target selection. We will approach the analysis of discursive practices during the Obama Presidency as a norm entrepreneur on drone strikes with these salient elements of the underlying normative questions that arise with drone strikes in mind to analyse them in greater depth using Fairclough (1989, 2014). The analysis of themes seeks to act as an analytical scalpel to reveal the skeleton of the argument and to discover whether this skeletal structure of argumentation is consistently present in different speeches .

In looking at a set of specific speeches of the Obama era that lifted the lid on covert drone war, we probe whether these rhetorical or persuasive arguments extended across different speeches and which themes are present. We do this to see which arguments serve the cause of justificatory norm contestation of existing internalised and institutionalised norms of the international system. We shall see how the arguments used by President Obama himself and by his key advisers, prominently among them Harold Koh, the State Department Legal Advisor at the time, sought to place drone use under the rubric of a 'law of 9/11'. We look at how this argument is then carefully and persuasively unpacked to craft an approach to the use of force questions that affect the UN Charter, and IHRL and IHL specifically, in order to condone drone strikes under a rubric of applicable law.

It is important, even at the outset of the analysis, to mention clearly that even the very term 'drone' is contested. Historically, these systems were called unmanned aerial (UA) or unmanned aerial vehicles (UAVs), but because pilots are still active in their deployment, some believe that non-emotive terms such as remotely piloted aircraft (RPA) ought to be used. The media reporting on the weaponised drone programmes of the United States has resulted in a near equivalence between the term 'drone' and the concept of 'targeted killing' in the public mind, and hence some seek to avoid using the term 'drone'. However, given the importance of the term during the period covered by this study, the term 'drone' is expressly used in this analysis. It is important to note, however, how the norm itself has become polemical for the purposes of a critical discourse analysis of drones. We need to remind ourselves that drones represent a natural advancement in the technological evolution of warfare that for some is profoundly welcome, whilst it represents a dangerous decline in morality and accountability for others. The latter view the rise of these steely silver eyes in the sky and the rise of targeted killing (the 'permissible' face of assassination according to some) as a complete step-change in warfare that places the entire edifice of the international system potently and potentially at risk.

As Keene (2015:5) has asked and shown, the core questions about drones are whether they are legal, ethical and effective. These three questions structure not only the normative debates that we see, but also the rhetoric deployed to achieve them. As a result, they deserve our

careful, separate attention prior to analysing the selected speeches. She points to the fact that the United States believes that drone strikes are legal, deriving their authority from the never-ending 'war on terror' paradigm, and argues that the threat levels of terrorism implied are undiminished and consequently that such threat levels permit the preclusion of IHL. This contrasts starkly with the views of the UN Special Rapporteur on extrajudicial killing, as we shall see in the subsequent chapter, which contend that the priority throughout any of these drone strike actions remains the right to life enshrined in international law. These contrasting discursive views, engaged in textual speech acts, vividly and starkly show the contours of the norm contestation that we will analyse and for the use of drones as a core tactical and operational component of modern 'asymmetric wars'. This complexity is heightened by the fact that the enemy in this type of war is not another state, and the fact that the techniques used to combat such an enemy embrace both military and law-enforcement paradigms. This is reflected in the rhetorical shifts we will analyse from a 'terror as conflict' paradigm to 'terrorists as murderers'. These tensions are exacerbated and complicated by the close collaboration between intelligence agencies (with a law enforcement remit such as the CIA), and the Department of Defence and its use of special operations forces in modern wars that make some of these distinctions nearly impossible to sustain. These ambiguities and complexities, and the scope for justificatory norm contestation, grow because of the blurring of the lines we observe between the laws of armed conflict (LOAC) and the law-enforcement paradigm. Further complications arise for the just war tradition. At issue in the *jus ad bellum* leg of the tradition is the norm contestation we see around Article 51 of the UN Charter and norm issues related to the right to self-defence. At issue in the *jus in bello* leg of the just war tradition is the applicable edifice of IHRL and IHL and the mode and manner of drone strikes and their effect on civilians. These questions affect the targeting legitimacy, issues of state sovereignty and whether drones impede a nation's territorial integrity, along with the notion of what constitutes an 'armed attack' for the purposes of the United Nations Charter. Other issues include questions of proportionality and collateral damage and whether the 9/11 attacks can actually still be used, nearly 19 years later, to justify self-defence responses to 'imminent threats'. All this mitigates for greater clarity, which demands transparency.

According to Keene (2015:17):

What is clearly much needed is greater transparency and accountability in order that an informed debate can take place in the public domain in relation to the legality of armed drone attacks.

Keene's (2015:36) searching questions show a critical insight into the complex context of counterterrorism in which drone use has had a plethora of consequences that raise critical

questions for United States policymakers. As drones became more visible, so did their consequences, and these questions became more visible and required proper public answers. This is what we look at in this chapter. As Keene alerts us, the benefits of these tactics must be weighed against the reputation of the United States as a human rights stalwart amongst its allies, and the key issue of the extent to which drones are actually and really having a positive effect in countering terrorism, given their high moral costs, which could be said to be counterproductive as they compromise the very values the country claims to hold dear.

As we shall see in the analysis of speeches that follows, this is exactly what the Obama administration set out to do by bringing the just war rhetoric to the argument. Their public persuasions were aimed at convincing the world that the drone programme was legal and sound and not a justificatory norm-contestation exercise, when this was exactly what was at stake.

4.2 Following Fairclough – A Critical Discourse Analysis of Specific Speeches of the Obama Era on Drone Strikes and the Use of Force

This analysis of four selected key political speeches and the Presidential Policy Guidelines document focuses on the linguistic features of the text, the process involving the production and consumption of these texts, and the wider social practice to which the communicative event belongs. This is in keeping with Fairclough's three-dimensional model. As far as the discursive practice dimension is concerned (text production and text consumption), the context of greater efforts at transparency and moving drones into a law enforcement rule of law rubric are highly relevant. It is one of the most strikingly consistent features we will see across these texts that use legal concepts and rhetorical justifications for such usage and legal concepts extensively. As far as the societal practice component of Fairclough's model is concerned, these communicative events (political speeches in this chapter) were all delivered at universities to an elite opinion-shaping audience and targeted them expressly as policy elites who shape norms. These are therefore persuasive acts that sought to move away from the Bush-era excesses, with executive overreach and the metanarrative rhetoric of the 'war on terror'. They sought to bring counterterrorism policies closer to a constitutionalist and rule of law rubric. Whilst it often became a bit of a hybrid approach in practice, as the analysis below reveals in the specific probing of core themes in the speech acts, the distinctive linguistic and normative effort made is noteworthy and worthy of study, as it sought to move away from the 'war on terror' frame metanarrative to a 'legal compliance' metanarrative. This becomes clear in the analysis, as we will see. In order to move this critical discourse analysis of drone discourses closer to answering the research questions set out before, we now seek to probe the following specific questions aimed at revealing themes using Fairclough's guidance on

language and power, and also to probe the Presidential Policy Guidelines document in addition to speeches. We do so by looking for the themes that show this shift to a rule of law rubric during the Obama era. The specific questions that we use to look for themes in the analysis below are:

Question 1 – How does the speech or speech act frame drone warfare? (Theme 1)

Question 2 – How is language used to facilitate ‘othering’ and ‘us’ and ‘them’ relational pairings? (Theme 2)

Question 3 - How are victims of drone strikes, specifically civilians, referred to, if at all? (Theme 3)

Question 4 – Which moral and/or legal justifications are used to legitimise targeted killing? (Theme 4)

These four questions guide our data analysis below of the speeches of Harold Koh, John Brennan, Eric Holder and President Obama himself, as well as the Presidential Policy Guidelines document. This is where the very heart of the justificatory norm contestation on drone use lies in rhetorical application, and where we can see the nexus of language and power, which is the essence of Fairclough’s work. In following Fairclough (1989, 2014) and his three-dimensional approach, we look for these key themes in texts. We will see how these themes shape and are shaped by representations of power within the official discourse and policy pronouncements on drones and the use-of-force decisions that guide them. We will see how high-level political speeches function to shape and frame discourses in order to legitimate drone use and broader norms on the use of force and drones in the overall frame of the war-on-terror discourse in which they still lie deeply embedded. We seek to do this to understand how representative democracies such as the United States sought to bring some transparency and persuasive argumentation into a covert space, and how it sought to place the rule of law back onto the front-burner of counterterrorism policies under the tenure of President Obama.

We are probing the construction of thematic realities and identities within the texts selected and look at questions of power, morality and ideology, as urged by Fairclough (1989, 2014). Simultaneously, we are on the lookout for any ‘frames’ that are either present or being manipulated, as urged by Van Dijk (2006). The texts that have been selected reveal how ideological notions are constructed, distributed and manipulated with a carefully built discourse on power and its use. As the dataset is limited, conclusions will by their very nature have to be kept at the level of narrow interpretative value for exploratory purposes and be restricted to the study itself. However, the study will, through its explorations, pose further questions for future research that can only be facilitated through deep transparency and mixed

methods with full access to critical information that moves the research agenda beyond the covert confines that currently restrict it and hem it in.

What cannot be denied, at the outset of this analysis, is that the specific set of speeches probed came about as a direct result of drone killings and discourses that involved the United States' role as a key norm-setting and norm-shaping state in the international system. Its actions and words have brought pressure to bear on existing norms that are internalised and institutionalised around use-of-force prescripts in international law, and was a clear use of power linguistically and robustly defended. In the dissection of these and the subsequent analysis below, we operationalise Fairclough's model with extensive contextualisation, mindful of the environment in which these speeches were crafted and delivered, as they are hallmarked by the Obama administration's stated desire to move out of the 'war on terror' metanarrative to a rule of law-based constitutionalist rubric that revives the just war tradition, even in the midst of drone strikes.

The speeches identified for this segment of the study are collected from a set of critical policy speeches of President Obama and his key advisers that played a critical part in shaping global debates on international norms for the use of force and drone strikes. They are of specific significance in an analysis that aims to establish at what stage of the norm life cycle drone norms may be given the critical, internalised and institutionalised international norms that they put into play. The speeches are analysed through a CDA of the specific selected speech acts that expressly looks for themes that recur in their content. The analysis uses Fairclough's (1989, 2014) three-dimensional model and four specific questions to reveal themes and issues that are indicative of power and shifting power dynamics. It also embraces Van Dijk's (2006) concept of framing to tap into the issues raised above by Brunstetter and Jimenez-Bacardi (2015) about frames in drone discursive practices, which moved from strategic-legal to legal-normative during the Obama era. The four questions (creating themes) that were used to crystallise Fairclough's (1989, 2014) search to reveal language and power dynamics in these speeches guide the analysis of specific speech acts.. What we are also seeking to analyse are specific frames that may be present that address core normative issues of Article 51 and IHRL and IHL, as well as specific rhetorical themes of 'othering' of the 'enemy' for the purposes of rhetorical 'dehumanisation' that can facilitate bodily harm with drone strikes, as well as questions of the impact on civilians. These are the discursive issues that hint at the deeper contextual tensions that are present with the introduction of drones to leverage broad interpretations of the use of force, thereby challenging norms.

4.2.1 Speech Act² 1: Harold Koh, State Department Legal Counsel, ASIL Meeting, 26 March 2010

In terms of the first question that guides our framework of analysis, we need to see how the speech opted to frame drone wars. Koh's speech frames drone wars by casting them as a use-of-force case, where armed conflict is being used against Al-Qaeda, the Taliban, and associated forces in accordance with Congressional authorisations. He points out that the Obama administration sought to obey all applicable law and that there were no bars to using drones (or technically advanced weapons systems), as the decisions on who should be targeted do not depend on the weapon system being used, but turn on the legal questions. In this regard, the targeting decisions, according to this speech, are fully in compliance with all prescripts and the laws of armed conflict. These are extraordinarily strong normative assertions that drone strikes comply with all law and that the United States is in an armed conflict against specific enemies, which justifies an expanded use of force under the rubric of self-defence.

According to Koh (2010):

... the rules that govern targeting do not turn on the type of weapon system used, and there is no prohibition under the laws of war on the use of technologically advanced weapon systems in armed conflict.

This is a robust rhetorical defence of the justificatory norm contestation of Article 51 of the UN Charter we have already analysed in Chapter 2 of this study. Targets of drone strikes are rhetorically 'othered' in the speech by describing them emotively as 'belligerents' who are lawful targets under Congressional authorisations aimed at Al-Qaeda, the Taliban, and associate forces.

According to Koh (2010):

... individuals who are part of such an armed group are belligerents and, therefore, lawful targets under international law.

The speech frames questions of how the targeting of drone operations may affect civilians by emphasising efforts taken to minimise such harm and plays up how the United States adheres to *jus in bello* principles in its drone operations, and how such technologies help in minimising harm.

According to Koh (2010):

²² As has been shown in Chapter 3 of this study, a 'speech act' is an utterance that serves a function in communication. Speech acts can be powerful conveyers of cultural norms. Political speeches, as analysed in this chapter, are important speech acts.

These domestic and international authorities continue to this day.

4.2.2 Speech Act 2: President Obama's remarks that alluded to the killing of Anwar al-Awlaki on 30 September 2011

Whilst these remarks are not an integrated speech act as such, they speak to the larger issue of the silences of the initial drone war years and how this was also evident in cases such as these remarks. In terms of speech acts and critical discourse analysis, and what CDA calls 'silences that speak', the near silence on the intelligence-led drone strike that killed United States citizen Anwar Al-Awlaki is significant.

This strike was a CIA drone strike in Yemen and is framed as a death attributed to Yemen joining the United States in its armed efforts against Al-Qaeda and its offshoot Al-Qaeda in the Arabian Peninsula. The fact that this was a CIA drone strike is not expressly addressed, but in terms of 'othering' techniques, Al-Awlaki is framed as a member of an organisation that 'murders' innocent Americans, that has a 'murderous agenda' – an agenda that also affects Yemeni citizens.

According to President Obama (2011):

al-Awlaki (sic) and his organisation have directly been responsible for the deaths of many Yemeni citizens.

In these remarks, al-Awlaki is cast as a key member of Al-Qaeda in the Arabian Peninsula, a hateful murderer of his fellow Americans and Yemenis alike. The full formal legal admission of al-Awlaki's death and that of other American citizens is only made in a full letter to Congress in 2013 following greater transparency about the drone programme overall. In this sense, the 'silence' is only properly broken nearly two years after the fact of the action. As far as any civilian casualties are concerned, this is also a distinct area of silence, with remarks that emphasise that his death clearly would have been sanctioned by Congressional use-of-force provisions.

According to Obama (2011):

The death of al-Awlaki marks another significant milestone in the broader effort to defeat Al-Qaeda and its affiliates.

4.2.3 Speech Act 3: Attorney-General Eric Holder's speech at the Northwestern School of Law, 5 March 2012

The speech by United States Attorney-General Eric Holder frames drone wars in terms of the justificatory norm contestations we have already identified. He asserts that the President may

use force abroad against senior leaders of terrorist organisations (the 'other') and that this includes United States citizens. He makes it clear that these legal authorities are not limited to hot conflict zones such as Afghanistan, and places emphasis on the fact that the United States is a nation at war (confronting a stateless enemy) and that the United States fundamentally respects laws.

According to Holder (2012):

We are a nation at war ...

... we are also a nation of laws and values.

We see how the effort to emphasise the different approach of the Obama administration to a more rule of law-focused rubric to drone wars emerges as a key theme in the Department of Justice's pronouncements. In terms of 'othering' and rhetorical presentation of the enemy, the themes of people plotting to 'murder' Americans (including the fact that such 'murderers' may be other Americans) come to the fore once more. Interestingly, whilst the rule-of-law rubric is restored by the rhetoric used in the Holder speech, he seeks to ensure that the 'othering' of United States citizens that join the cause of the 'enemy' is not doubted and points out that they are legitimate targets who do not and will not enjoy constitutional protections, and by implications the protections afforded by IHRL and IHL. According to Holder (2012):

... it does not mean the government must take into account all relevant constitutional considerations with respect to United States citizens even those who are leading efforts to kill innocent Americans.

The Holder (2012) speech emphasises that the nature of drone strikes allows such actions to be taken under the laws of armed conflict that expressly seek to minimise civilian casualties. According to Holder (2012):

... and that the risk of civilian casualties can be minimised or avoided altogether.

He taps into core issues of justificatory norm contestation we have already explored by stating that the United States' Constitution expressly permits the President to protect the United States against any form of imminent threat and that this inherent right to self-defence is permitted by international law. According to Holder (2012):

... there are instances where our government has the clear authority – and, I would argue, the responsibility to defend the United States through the appropriate and lawful use of lethal force.

The Holder speech solidified the three-level test used by the Department of Justice to decide whom to target, including the question of the imminence of a threat of violent attack, the feasibility of capture and the applicability of the laws of war to the circumstances. His speech importantly also deals with the importance of Congressional oversight over targeted killing.

The Holder speech represents a strong effort to roll out the Obama administration's rule-of-law rubric and frame for drone strikes, even though their very nature tugs at the very fibres of laws.

4.2.4 Speech Act 4: John Brennan's Speech at the Woodrow Wilson Center for Scholars on 30 April 2012

This speech, as is the case with the Holder speech above, occurred after President Obama lifted the lid on the drone wars in a Google 'hang-out' in January 2012. It is one of the most important texts in the justificatory space of norm contestation. The Brennan speech plays up the efficacy of drone strikes and claims that even Osama bin Laden warned his forces to flee the efficacy of the remotely piloted aircraft and their photography and bombardment potency. He asserts boldly that drone warfare is precise and establishes new precedents, with the United States being the first nation to do so to this extent, raising the caveat that such weapon systems are not perfect. According to Brennan (2012):

... we are mindful that as our nation uses this technology, we are establishing precedents that other nations may follow.

The framing of the 'other' in Brennan's speech focuses on the drone strike that killed Osama bin Laden – an emotionally charged topic – and states that his death did not equate the death of Al-Qaeda. It remained an organisation that adhered to a 'murderous ideology' to exterminate innocent Americans and opted to recruit American citizens to its cause. He once again uses the notion of whether such an 'other' posed imminent threats that rendered them proper targets. According to Brennan (2012):

When considering using lethal force, we ask ourselves whether the individual poses a significant threat to United States interests.

He uses strong metaphors, equating Al-Qaeda with a cancerous tumour that requires surgical removal, and uses the 'murderer' and 'murderous ideology' phrase throughout, which invoke the law enforcement paradigm favoured and emphasised by the Obama White House. As far as the question of how the speech frames civilian deaths is concerned, he places significant emphasis on the extraordinary care taken by the United States to avoid such casualties and argues that the precision nature of targeting decisions themselves, as well as the tactical

execution thereof via drone strikes, ought to ensure minimal loss of civilian life, whilst conceding that it does still occur.

According to Brennan (2012):

... we only authorise a strike if we have a high degree of confidence that innocent civilians will not be injured or killed except in the rarest circumstances.

On the question of moral and/or legal justifications for drone strikes, Brennan posits that the United States remains true to its core values as a nation and that it acts in a manner consistent with international and domestic laws. He argues that this includes significant Presidential powers over foreign policy and its execution, and proper executive accountability in this regard. He praises efforts of the Obama White House to craft transparency in counterterrorism policies. It is important to note that this speech was made before the Obama speech in 2013 and the Attorney General's letter to Congressional committees the night before President Obama's speech to the National Defense University on drone policy that conceded and revealed the deaths of United States citizens in Yemen more formally and accountably. He makes clear the crucial link between preventive self-defence and drone strikes that challenge international norms. According to Brennan (2012):

... and we may also use force consistent with our inherent right to self-defense.

There is nothing in international law that bans the use of remotely piloted aircraft (RPAs) for this purpose.

He goes further to draw expressly on the just war principles in arguing for the wisdom of these strikes. According to Brennan (2012):

Targeted strikes conform to the principle of necessity, distinction, proportionality, and humanity.

4.2.5 Speech Act 5: President Barack Obama's Drone Policy Speech at the National Defense University on 23 March 2013

In his key speech on drone policy, which was a milestone moment – however limited – for transparency on drone strikes, President Obama used deeply emotive rhetoric extensively across the four questions posed by this study's use of Fairclough's (1989, 2014) model and to analyse themes across speeches. The President sought to extensively and emotively emphasise the core of United States values and constitutional principles and to show how his administration was aware that all policies, including that of drone strikes, would be defining for the United States and its values. He argued that the United States used its drones legally against Al-Qaeda, the Taliban and associated forces (the wording of the AUMF) and sought

to show an awareness of the need for restraint with this new technology, lest it compromise the values alluded to.

According to Obama (2013):

For the same human progress that gives us the technology to strike half a world away also demands the discipline to constrain that power or risk abusing it.

He sought to emphasise the framing of drone wars in terms of the ‘imminent threat’ terminology we have seen consistently across presidents and administration officials, and to show that the United States only acted when other governments were incapable of acting to stem the threat. He also showed that, like with the Holder letter to Congress the day before this speech, he also had signed a framework that we now know as the Presidential Policy Guidelines (PPG) that tried to bring guidelines, oversight and accountability practices to the decisions of the administration to use force against ‘terrorists’. It is noteworthy that it took a further three years and access-to-information litigation by the American Civil Liberties Union on the deaths of Americans through drone strikes to make this document properly public. In terms of the framing of drone wars, and the contestations around Article 51 of the United Nations Charter they represent, this is clearly present quite strongly in the speech.

According to President Obama (2013):

... we act against terrorists who pose a continuing and imminent threat to the American people, and when there are no other governments capable of effectively addressing the threat.

In framing the ‘other’, which taps into levels of ‘dehumanisation’ of the targets, his rhetoric is as strong as that used during the Bush era, and he speaks of ‘terrorists’ (including United States citizens) but states that a high threshold applies to targeting. In speaking of the United States, he speaks strongly and emotively of how their citizenship ought not to protect them against the lethal use of force if they threaten their home. Given his own long activism on rights-based questions, it is noteworthy how President Obama seeks to try to emphasise that a near-certainty that no civilians may come to harm must be assured prior to any lethal strikes. However, he still argues degrees of equivalence.

According to President Obama (2013):

Remember that the terrorists we are after target civilians, and the death toll from their acts of terrorism against Muslims dwarfs any estimate of civilian casualties from drone strikes. So, doing nothing is not an option.

In looking at the core moral or legal justifications for drone strikes, President Obama seeks to abandon the 'war on terror' frame and to emphasise the actions as persistent targeted actions aimed at dislodging specific extremist networks that threaten the United States. In targeting Al-Qaeda as a 'murderous' entity, he nonetheless blurs the law enforcement and war paradigms by invoking the self-defence, war terminology and just war theory precepts against an 'organisation'. According to Obama (2013):

So, this is a just war waged proportionally, in last resort and in self-defense.

He places great stock on the need for proper Congressional oversight, but reminds his audience that Congress authorised action (the 2001 and 2002 AUMFs) and alerts his listeners to the fact that the legislative body had line of sight of every single strike. He goes further to stress the role he had played in peeling away covert secrecy. He also showed a keen awareness of how specific operational tactics could ultimately refine and repeal the AUMFs after nearly two decades. According to Obama (2013):

In the absence of a strategy that reduces the wellspring of extremism, a perpetual war – through drones or Special Forces or troop deployments – will prove self-defeating and alter our country in troubling ways.

4.2.6 Speech Act 6: The Presidential Policy Guidelines for Capture or Kill Decisions Made at Executive Level (signed by President Obama (23 March 2013) and Released to the ACLU Following Litigation (5 August 2016))

In turning to the question of the framing of drone wars, we note that the PPG document (a bureaucratic procedure text for decisions on targeted killing) stipulates that the use of force is engaged when capture cannot occur and interagency reviews have indicated this, allowing the President to decide on a kill operation, which must be formalised. The 'no harm to civilians' argument runs throughout the PPG document and its various processes, which are still heavily redacted despite its release. In terms of the question of the representation of the 'other' or 'othering' by this document, the targets are 'lawful terrorist targets' and largely 'high-value targets' (HVTs) and targets 'other than high-value targets'. On the framing of civilians, the PPG tries to conform with international law. According to The Presidential Policy Guidelines ([PPG] 2013):

... near certainty that non-combatants will not be injured or killed.

On the moral and/or legal questions and justifications for drone strikes, the PPG document requires that all operational plans be legally reviewed (by agency counsels for the Pentagon, the Central Intelligence Agency and the National Security Council Legal Adviser) and their

basis in international law be properly vetted and checked. This review is crucial to the PPG. According to the PPG (2013):

... shall indicate with precision ... the international legal basis for taking action.

The PPG also makes it clear that targeting may be done under existing authorities, referring to preventive self-defence regulations and the AUMF (2001 and 2002). What we see emerging in these speeches, mindful of Fairclough's (1989, 2014) framework of *Language and Power*, is the United States exerting considerable power in challenging international use-of-force provisions. This is true with regard to Article 51 of the United Nations Charter in order to facilitate drone strikes, and a considerable investment in persuasive argument, moving rhetoric and strong legal and normative appeals to marshal support to its cause and to legitimate drone strikes during the Obama era. It is done under a proper effort to bring a rule-of-law rubric and just war theory principles to bear in its rhetorical strategies. But what does all this mean and what may it signify for our original questions about the norm life cycles of internalised and institutionalised norms that are coming under pressure with the advent of drones and 'asymmetric wars'?

4.3 The Significance of the Speech Acts of the Obama Administration on United States Drone Policy for International Norms and Power

In a thoughtful intervention, Barela (2015) probes legitimacy as a target of policy and probes what efforts have been made, either through the use of rhetoric or by other means, to enforce the legality, morality and efficacy of drones so as to support perceptions of their overall legitimacy. He starts by pointing to the exact crisp critical normative challenges posed by drones and their use.

According to Barela (2015a:2):

... it is this significantly increased facility for exercising deadly force in far-flung regions across the globe that is putting great stress on many of our established norms. Our existing legal and moral frameworks, not to mention methods for judging efficacy, are often insufficient, or not quite applicable, to the novel use of killer drones.

He emphasises that the proliferation of drones has meant that technology is moving far faster than any rules, regulations or existing norms appear able to do, and this is exactly how norms are placed and remain under pressure. What we will see in the analysis in this chapter is a clear understanding by the Obama administration and its key officials that a failure to properly explain drone strikes would endanger any notion of their legitimacy and break trust with allies, whilst denuding democratic accountability in the domestic polity of the United States. The collection of scholarly work brought together by Barela (2015) in interdisciplinary form argues

that sound policy ought to be legal, moral and effective, and that this ought to be the case also with drone policies. It is perhaps unsurprising that these are also the chosen themes that inform the discursive practices and speech acts of the Obama administration as it lifted the lid on covert drone strikes. These are the themes we have looked at in the different speech acts represented above.

As we shall see, the speech acts probed sought to argue and persuade that drone strikes were legitimate, despite the clear contestation of norms which they represent. Indeed, in referencing President Obama's landmark speech on drones at the National Defense University in 2013, Barela (2015a:6) points to the importance of this moment, when the covert operations veil of secrecy was properly lifted for the very first time by the President himself, and how his admission of lethal action using drones, including against United States citizens, was swift and clear. The speech is a landmark moment of transparency when the drone programme was not only admitted to, but the norm contestation was made vividly clear when he pointed out that the United States had taken lethal steps that were targeted against Al-Qaeda and its affiliates using drones. This clear concession of existing United States actions was accompanied by three clear statements emphasising how these strikes were effective, legal and moral, as has been emphasised by Keene (2015) and Barela (2015) in subsequent years of scholarly analysis.

These three cornerstones of rhetoric, coupled with a rhetorical resurrection of the principles of the just war tradition, inform the rhetorical approaches in the speeches we analyse in this chapter and are a clear example of themes that can be common between different texts and speeches. As such, they may represent a skeleton of a coherent argument being made by the President of the United States as a norm entrepreneur, and by his key officials regarding drone strikes in countries as diverse as Afghanistan, Yemen, Pakistan and Somalia. As we have seen in the speech analysis section above using Fairclough (1989, 2014), President Obama highlighted the effectiveness of drone strikes in emphasising its 'decapitation' strategy aimed at top Al-Qaeda operatives, thereby curtailing terrorist plots that would have put lives at risk.

He emphasised the legal nature of these strikes (a crucial part of the justificatory norm contestation we trace in analysing rhetoric) under broad Congressional Authorisation of Military Force authorities, as well as international law, invoking the War Powers Resolution in asserting the United States' right to self-defence for the 9/11 attacks against Al-Qaeda, the Taliban and associated forces. He uses the exact wording of the Authorisation of the Use of Military Force Resolution adopted by Congress. In addition, he invokes the just war tradition to claim that such strikes were moral, as they were a last-resort action of a proportional nature taken purely in self-defence. He did, however, raise a small moral caveat by conceding that

the broader military tactic was legal, but that every strike would have to stand or fall on an individual basis for its broader compliance with proper legal criteria, as they do not enjoy blanket protection.

Barela (2015a:7) developed a theory of legitimacy that requires the presence of legality (formal validity), morality (ethical validity) and efficacy (empirical validity), which he urges us to use to judge overall legitimacy. He points out, for the purposes of our deeper questions about norms, that drones pose tests and legitimacy questions for international law on at least four scores that have geopolitical and geostrategic implications from an international relations point of view. These are: whether the use of force in another sovereign state can be justified; whether there are geographical limits to the applicability of IHL; whether there is a proper application of IHRL when deadly force is exercised in such circumstances; and who a legally permissible target is in a conflict involving a state on the one hand, and a group of individuals on another. These questions lie at the heart of the persuasive efforts relating to drone strikes, drone wars, and drone-related rhetoric. This is the essence of the rhetorical justifications for the use of force with drone technology that challenge international norms.

According to Barela (2015a:13):

As the use of armed drones has become a publicly recognized reality ... over the last 25 years the legal rules have been readjusted through interpretation to permit forcible counterterrorism under more lenient conditions. Nevertheless, the risks posed by current practice might indeed compel further readjustment to a legal regime undergoing stress as this act of force becomes more common.

As we will see, one of the more contested norm questions relates to the application of IHL and its proper application, as drone strikes facilitate armed conflict well beyond traditional combat zones and without territorial constraints. Another pivots on situations in which IHRL applies where there is clear doubt, and therefore clear norm contestation, about whether drone use could be permitted, invoking the core requirements of necessity, proportionality and precautionary measures. The fact that drones are aimed at ensuring targeted killing missions in which the gradual use of force is largely academic, make this unlikely. What we therefore can see is that a significant rhetorical effort would be required to surmount such significant rhetorically normative hurdles and to seek to sell a message that drones are not only permissible, but indeed legitimate and therefore desirable. This is exactly the effort that we see United States policymakers making that is at the heart of the analysis above.

Whilst drones do not represent the first time that technology has upset the parameters of war and the morality of conventional norms of war, it is the deeper shifts in terms of Article 51 of the UN Charter and the use of force (of which drones are a vivid symbolic metaphor) that are

actually at stake. Here the question of what an ‘imminent threat’ is and what it represents is massively important. The Bush and Obama administrations distorted the concept of ‘imminence’, and the drone strike that took the life of Iranian General Suleimani in early 2020 again brought to the fore the question of ‘imminence’. This seems to be a consistent trendline that persists under the Trump administration as a firmly established new norm within the United States policy machinery, albeit one that seems increasingly to be contested domestically by Congress and the Senate as the legislative branch of the government seeks to find its voice in foreign policy.

Hayim (2015:191) has argued that the just war theory has been supplanted by the ‘clean war doctrine’. According to this logic, the notion of a ‘clean war’ echoes what we have seen raised about a ‘virtuous war’, and suggests that the cleanliness of effects could be a substitute for the legality/morality test that we associate with the just war tradition of old. She uses this concept of a ‘clean war doctrine’ to foreground the redefinition or reinterpretation we see of international law and principles that this could imply, and emphasises how new questions of ethics and morals are deeply entwined with semi-autonomous weapons. Kolb (2015:299) argues that the post-9/11 UN resolutions that sought to respond to this ‘armed attack’ seemed to introduce a disruption of legal categories that brought bodies of law into focus and into conflict with one another – a situation exacerbated by the justificatory norm contestation we associate with drone strikes now. This strain has and will have deep implications for the global system in an era of renewed geopolitical tensions amidst rising great power contestations. Barela’s (2015) interdisciplinary collection is an inspiration to this study, which seeks to continue to build a bridge between international relations theories of norm life cycles, critical discourse analysis and the international law principles that are at stake in norm contestations on drones.

According to Barela (2015b:22):

The current usage of [drones] is agitating our existing norms.

Ali (2017:45) posits that the British and Arab press were and are sceptical of claims made by the United States that drone strikes are legal, moral and effective. What are mostly challenged, and what lies at the heart of the justificatory norm contestations that underline the evolution of drone norms, is whether such strikes are indeed legal. This is the crisp question that is at issue in justificatory norm contestation in agitating for their use and in the rhetorical discursive practice that seeks to solidify this contestation in the public mind. For international relations scholars, it is this language used to contest norms that is of interest more than the exact legal answers that require a detailed analysis and is best left to scholars of public international law.

One of the issues that is closely allied with what has been called a ‘clean war doctrine’ is the introduction of discursive practices that have sought to emphasise a discourse that uses surgical metaphors and notions of surgery to remove cancerous growths as powerful analogies for drone strikes. According to Dos Reis Peron and De Brito Dias (2018:60):

In his speeches between 2010 and 2014, Obama emphasises the efficiency and surgical precision of drones rather than their lower costs, in what could be described as a search for a ‘surgical legitimacy’.

What we have seen across the set of speeches included in this study is a clear rhetorical effort to advocate that the contemporary Middle Eastern conflict could somehow be contained by the responsible deployment of ‘surgical’ weapons systems (i.e. drones) rather than costly troop deployments that sacrifice lives and political capital. Consequently, enchanting visions of drones were required to sway public opinion and speak to these surgical metaphors and rhetoric, and this was done as we can see in the analysis of the speeches themselves. What was introduced was a vector of discursive practices that served the interests of the defence and intelligence community. Riopelle and Muniandy (2013) argue that official and media discursive practices served to sell the ‘war on terror’ rubric and drone-use rubric as a sustained aestheticised and disembodied fantasy. It stands to reason that such an effort and type of discourse – deliberately crafted and mass conveyed – would be absorbed by the public, resulting in acquiescence about drones and not mass confrontation with elected leaders through a backlash over human rights challenges.

Brookman-Byrne (2017) argues that speech acts, specifically the speech by Harold Koh in 2010, sought to broaden the circumstances in which lethal targeting would be permitted, thereby crafting a discourse about action taken outside an area of armed conflict. A rhetorical conflation of *jus ad bellum* with IHL was created and this conflation, in fact, is arguably against the key tenets of international law, as we shall see. Established law requires that any determination of whether the use of force is legal under *jus ad bellum* does not affect the allowable way hostilities may be conducted.

According to Brookman-Byrne (2017), the phrase ‘outside areas of armed conflict’ thus forms part of a perceived trend in the foreign policy of the United States towards legitimising the use of military force outside of armed conflict, a palpable manifestation of which is the notion of ‘naked self-defence’ or ‘self-defence targeting’. This justificatory norm contestation on use-of-force prescripts, which has a clear rhetorical and discursive practice background, has the potential to nudge forward the development of customary international law that favours the broadening of allowable military might outside of the confines of armed conflict. This would be at great potential cost to the international community.

If such justificatory norm contestation, and the rhetoric deployed to achieve it, is successful in a world of a 'clean war doctrine' with drones, drone swarms and autonomous weapons, amidst rising great power politics tensions geostrategically speaking, it will be disastrous for global peace and security and for its overall guardian, the United Nations. These are not mere academic questions, as important as it is to probe them analytically, since most of the drone strikes have occurred in Pakistan, Yemen and Somalia, which are classified as 'outside areas of active hostilities', in contrast with Afghanistan, Iraq, Syria and Libya, which were clear areas of hostilities. The notion of rhetoric being used to craft an 'internalised' non-international armed conflict is important in the light of the fact that the bulk of United States drone strikes have extraterritorial and not internal features. These questions are crucial for the applicability of IHL amidst drone strikes and the overturning of norms.

Both the Koh speech and President Obama's speech use language and persuasive argumentation techniques to justify that the United States is in an armed conflict with Al-Qaeda, the Taliban and associated forces, but it is noteworthy that the idea of global armed conflict does not have such a category in international law, nor does it correlate with any existing legal categories to which IHL applies. It begs pointing out that there is considerable unsettled law on the question of a 'non-international armed conflict' and the applicability of IHL, which is exploited to facilitate drone strikes in Yemen and Somalia and which opens up scope for considerable contestation of existing norms. As we can see, much of the United States' policy arguments around drones seek to engage in justificatory norm contestation about legal technological definitions of what is and is not a 'non-international armed conflict'. In fact, notions of 'inside' and 'outside' of areas of active hostilities have arguably been used to create greater scope for drone strikes, with dire implications for the established norms of IHL. Brookman-Byrne (2017) argues that these permissive interpretations of the application of IHL must be resisted to protect internalised and institutionalised norms that have served humanity well. The higher levels of armed conflict and higher levels of force that an IHL framework permits must remain the exception and must not become the rule. It must be the right to life that remains sharply in focus, along with IHRL and instruments. If we follow such an approach, much of the existing United States drone programme and targeting frameworks would be completely out of synch with current IHRL.

It therefore is possible that the methods of combat permitted by United States policy on operations 'outside areas of active hostilities', which are more restricted than those available under IHL normally, may ultimately be unlawful in some cases by virtue of the very fact that they are conducted 'outside areas of active hostilities', therefore rendering IHRL the primary paradigm. McDonnell (2012) asks critically whether we literally will sow what we reap (a word-play on the name of a certain kind of drone, the Reaper) with the norm challenges that have

been inaugurated by the rise of the Reaper drone to conduct assassinations and targeted killing. In a wide-ranging review of the issues at stake in these debates, and the discursive practices and rhetoric (text and visual semiotics) used to achieve them, he looks at the arguments preferred by the advocates of the robust self-defence argument that has been deployed rhetorically to justify the use of drones in 'outside areas of active hostilities' contexts in places such as Pakistan, Yemen and Somalia. This shows clearly what is at stake in contemporary justificatory norm-contestation leveraging rhetoric. This is also what we have seen across speeches in this chapter of analysis. Chapter 6 of this study will explore where United States policy on and practices of drone usage and targeting have deviated from the core internalised and institutionalised norms of the international system. Interestingly, and crucially for Chapter 7 of this study, Brookman-Byrne ((2017) shows how the argument about the fact that states that are unwilling or unable to secure themselves and are therefore targeted for drone use (states such as Pakistan, Yemen and Somalia) can then be used as an analogous argument to create room for humanitarian interventions that may also use drones, in fragile states. We will explore the risks that this poses when humanitarian interventions (or peace-enforcement operations) and counterterrorism operations may be present in the same country, for example Mali. We will explore such challenges and rhetorical flourishes in official documents that create this prospect very clearly in Chapter 7.

According to McDonnell (2012:247), the weaponised drone places a host of pre-existing norms in the firing line in justificatory norm contestation terms, as we clearly see in the discursive practices associated with this norm contestation and the rhetoric used to voice it. These include:

- A peremptory IHRL norm that prohibits targeted killing;
- A clear set of limits that dictates what military necessity allows combatants to do and what is out of bounds;
- A ban on attacking civilians (except where it is beyond doubt that they have crossed a line and are themselves directly taking an active role in any hostile actions);
- A clear IHRL and IHL protection for non-combatants, securing them from any attack or harm;
- A set of clear principles of chivalry; and
- The Lieber Code, which dates to the United States' Civil War and which expressly prohibits assassination, as does the Executive Order of former President Ford.

All these aspects arise in the context of justificatory norm contestation occasioned using drone technology and have required considerable rhetorical effort and defence. They have resulted in equally vociferous and considerable pushback and argumentation emanating from within

the United Nations system itself, and from key states in the United Nations Security Council that have voiced concerns about new norms that could emerge in the context of such contestation. This is the essence of the analysis in chapters 4, 6 and 7 of this study. As we will see, the notion of a global ‘war on terror’ with worldwide territorial reach adds significant layers of complexity and contestation to all these questions, and to the United States’ drone programme, which was the most visible element of that effort – especially after the Obama administration lifted the veil of covert secrecy that had been maintained until at least 2011.

McDonnell (2012:284) alerts us to a rhetorical nuance difference that we can see in this chapter’s discursive practice analysis of the Obama era and the distinction that drove the Bush-Cheney administration. The robust self-defence arguments that were used to justify drone strikes in Pakistan, Yemen and Somalia were different. Whilst the Bush-Cheney administration emphasised the United States’ global ‘war on terror’ frame, the Obama administration’s framing of the issue opted to emphasise that the United States was in a very clear and distinctive fight against Al-Qaeda, the Taliban and associated forces to keep the justificatory base as close to express Congressional authorisations as possible. We see this important nuanced distinction across all the speeches represented in this chapter, and it is one of those consistent themes that Fairclough (1989, 2014) urges us to look out for.

This argument allowed scope for the drone wars’ escalation and the ancillary argument that the United States could conduct targeted killing missions anywhere these specific ‘enemies’ may be, unless the state in which they are present exerts its authority, protects its sovereignty and acts to arrest, capture or kill such individuals itself. This would be the United States acting in self-defence against an imminent threat. As we shall see in Chapter 6, the United Nations’ machinery – in the form of the Alston Special Rapporteur Report – kicked in to push back against these justificatory arguments for norm contestation regarding self-defence to point out that they apply only at the *jus ad bellum* stage of the argument and most definitely not in the *jus in bello* stage, where IHRL and IHL would need to be respected. This is exactly the question of norms that drone usage challenges. Given the lack of proper transparency and accounting formally for civilian deaths associated with drone strikes – another challenge to the norms of the international system and applicable law – it is clear that making rhetorical arguments to justify challenges to norms is not enough to change them fundamentally.

As McDonnell (2012:289) so clearly articulates, it seems that the robust self-defence rhetorical arguments have not held track properly with the manner in which the international human rights community has entrenched the human rights revolution and internalised and institutionalised its values through, amongst others, the Martens clause and the bedrock of IHRL and IHL. In addition, he argues that the ban on extrajudicial killing is regarded as having

solidified into a peremptory norm of international law. The right to life, protected in the International Covenant on Civil and Political Rights, therefore has formidable roots that are internalised and institutionalised and unchanged, despite justificatory norm contestations to allow targeted killing with drones, as we have explored in this chapter. McDonnell (2012:315) sees drones, and the impact they have on the erosion of human rights norms, as the thin edge of the wedge in a world where we see the rise of drones, drone swarms and lethal autonomous weapons as part of our future and the future of conflict in the 21st century. This technological change, together with continued terrorist activity and the rise of great power conflict, entails combined factors that place our world in ever greater peril. These factors are all incendiary in relation to the norms that have protected global peace and security for centuries. When we add the evolving complication of a return to great power conflict and competition at the strategic level, the dangers of continued norm contestation become clear, as do the potential costs that could be quite considerable indeed. McDonnell warns us strongly that the real-world dangers that lie beyond the rhetorical flourishes and discursive practices are merely the symptoms of the far deeper and significant justificatory norm contestation this study explores.

Crosston (2014:3) focuses on the risk of the secrecy of the intelligence and military operations of the Obama era and the costs of the lack of ethical and legal transparency, despite some breakthroughs we have analysed, in terms of precedents being set for other nations to emulate in a world of drone proliferation. It is that this research had set as its goal to probe the discursive practices of the Obama presidency on drone use.

Its efforts to tear away the veil of secrecy made the norm clashes that underlie all the drone policy visible. This visibility assists us in understanding what the global community could confront if some of these precedents were to be emulated by other nations. This chapter's analysis of the justificatory arguments made across speech acts about drone use and self-defence makes the underlying justificatory norm contestations of which they provide evidence more starkly clear and visible. Whilst the United States has one of, if not the most sophisticated drone system in the world, most of the crucial legal questions that inhibit its further expansion and development are still openly debated, given that these debates are merely the symptoms of the deeper normative clashes they represent and that go to the very heart of the United Nations Charter and its use-of-force provisions, the just war theory and internalised and institutionalised human rights norms. These norms are aggressively being thrown into contention by the deployment and use of new weapons systems themselves, and even the controls of their proliferation that are at issue will pose challenges to existing disarmament norms, as we see in Chapter 8 of this study. The fundamental norms that are being contested (and arguably changed), and the rhetorical and discursive practices that will be used to secure support for such normative change, require the analytical attention of scholars in political

science and international relations. This will be a crucial part of this discipline in the 21st century, as these questions are merely set to grow and expand as technology and weapon system development continue to fuse and public and private power continues to intertwine.

As Crosston (2015:4) states:

The point being made here is that this ethical 'standard', purposely blurred, and contextual, is potentially dangerous as the rest of the world inevitably begins to catch up with the United State in drone technology.

Drone studies by political scientists and international relations scholars simply must be focused on the ethical and legal discussions, more than on the technological and technical prowess of weapons systems, as it is the former questions that carry the potential to unstitch global peace and security regimes and their architecture and the very lifeblood of the United Nations system itself. We can clearly see these risks in the strategic manipulations that are possible with just war theory and efforts to supplant it with a 'clean war doctrine' for the 21st century.

According to Crosston (2015:11):

What the literature tends to miss is the building up of a massive amount of legal, diplomatic, political, ethical, and military resentment brought about by an American belief in ethical justification maintained flimsily by technical prowess and an expectation of not being challenged on internal contradictions and inconsistencies.

Such dangers are particularly pronounced in an era of resurgent great-power politics. It stands to reason that, where the United States' drone programme and policies have entailed contestation of norms, or even legal transgressions of human rights norms, one should expect other states to operate and act similarly as drones proliferate. This will threaten the entire edifice of internalised and institutionalised human rights norms. It is these very norm contestations and opaque and arbitrary legal and ethical practices, reflected in rhetoric, that seek to entrench themselves amidst justificatory arguments that endanger peace and security. The idea that no other country would behave similarly is just fanciful, wishful thinking. Kutz (2014:440) reminds us that 9/11 led to a kind of singularity, where the notion of a catastrophic threat allowed utilitarian permissive arguments to be made, thus opening the door for rhetorical norm contestations on torture and targeted killing. For example, torture was rhetorically presented as an 'ethical' choice, not a ruthless response. This was also rhetorically true for the presentation of drones and targeted killing strike policies, which sought to present ethical considerations and arguments to justify their use. Indeed, Kutz (2014:441) expressly notes how John Brennan's speech act, analysed in this chapter, rhetorically defended United States

drone policy and sought to portray it as based on ethical considerations. However, as Kutz (2014:441) emphasises, the grave danger with the justificatory contestation of the anti-assassination norm carries with it the risk of the complete collapse of the broader normative limits that states have thus far signed up for to constrain violence in the international system. The world can literally not afford a drone-based killing policy being institutionalised as a normal part of violence between states that are members of the United Nations as a method to respond to low-level threats. This is not what militaries are built for, nor is it what civilian populations would democratically allow if they were given full say over such a decision. The grave threat of military force must always be constrained by democratic controls that are exercised properly. The risk is further exacerbated when and if executive authorities cut out the legislature, or count on its acquiescence, and start appropriating unto itself extraordinary powers to use extensive decisions about the deployment of drones and drone strikes that could have wide-ranging consequences for war and peace globally and opt to locate such sensitive decision-making and policy choices in the executive arm of government. The deliberative paradigm, located at the executive level, which we have dissected in this chapter across key speeches and policy documents shows a clear shift from the Ford-era Executive Order that prohibited assassination to a more managed position of permission and permissiveness locating itself at the executive level of government. As we saw in the analysis, these rhetorical speeches were made in the context of universities to political and policy elites. This highlights the gap that exists between non-accountable (in the checks and balances sense) elite policymakers and the core demands of proper transparency and deeper, proper public democratic accountability. It has served to highlight, in the case of the United States, the crucial role the United States Congress and Senate must continue to play in exercising oversight over the conduct of foreign policy at the executive level. In democratic states, it is always up to the public to 'unthink' erroneous decisions and exert accountability if policymakers have instituted the 'unthinkable' through democratically unaccountable decision-making.

Di Lellio and Castano (2016) point out in a review for the ICRC that the United States and Israel seek to adapt and circumvent international law and/or to engage in deep and profound justificatory norm contestation or justifications for clear norm violations by acting as 'norm entrepreneurs'. They point out how these two states often propose opposing or modified norms. They also show how the United States' efforts to conceal violations of norms and of international law (in the case of torture in particular, and in crafting a category of 'unlawful enemy combatant') has resulted in exposure of these very practices, remorse on the part of the United States and, counterintuitively, an indirect strengthening of existing norms as resistance to such challenges of norms built momentum.

According to Di Lellio and Castano (2016:3):

This has in fact served to reaffirm the status of IHL and other international norms.

They emphasise how targeted killing is frequently presented as a positive change from more dramatic bombing and place great weight on the ‘surgical precision’ theme we have seen applied to drone strikes before. Such an emphasis merely obscures the fact that drone strikes make killing more, not less, widespread and compromise the pillars of the just war theory of distinction and proportionality. These are questions that most of the authors of the ICRC Review emphasise. Additionally, as we see in Chapter 6, the UN Special Rapporteur on counterterrorism and human rights, Ben Emmerson, has called on both the United States and Israel to make a far greater effort to comply with IHL and IHRL in their use of drones and to limit violations of law and existing internalised and institutionalised norms.

Di Lellio and Castano (2016:13) make a crucial point that, whilst one can expect ‘asymmetric wars’ to place pressure on existing norms and to push the boundaries of IHL, the political and social discourse around armed conflict which this unleashes carries its own consequences, which include grave risk to international human rights as they step into deep rhetorical terrain that effectively dehumanises the enemy, as we saw in the speeches in this chapter. They conclude, however, that efforts by norm entrepreneurs to engage in justificatory norm contestation and to use discursive practices to push the boundaries of IHL to craft new norms on targeted killing using drones have failed. They effectively argue that, despite the considerable use of political and social rhetoric, which we have analysed in this chapter, these efforts have not succeeded in displacing IHL as far as drone use is concerned. Various principled voices were raised at the level of the United Nations to push back against the United States’ norm entrepreneurship and justificatory norm contestation for drone use that we have analysed here. These attempts by the United States were strongly and largely successfully rebutted and rebuffed by key players in the United Nations architecture, specifically a host of Special Rapporteurs who kept their focus squarely on the deeper norms at stake in the operational tactics of a crucial member state. Voices of other states, international organisations and transnational civil society formed a big part of this pushback against altering norms that affect human rights. They sought to block United States norm entrepreneurship in core tenets of public international law.

Some of these efforts to push back against the rhetoric and discursive practices unleashed to favour drone strikes will receive our attention in chapters 6 and 8 below specifically. They point to the power of internalised and institutionalised norms of ‘humanity law’ (the International Covenant, the laws of armed conflict (LOAC), IHRL and IHR and the just-war pillars) as a successful repellent to the norm entrepreneurship that sought to dislodge some of the aspects

of this formidable legal edifice with justificatory norm contestation and rhetorical flourishes aimed at crafting support and normalising drone usage for targeted killing. It is important in this context to also remind ourselves that the edifice of morality-based law can in itself influence behavioural compliance, as it can trigger debates and discourses and provide mobilising agendas for transnational civil society (as it did in the case of drones). Drone strikes and breaches of rights mobilised transnational global civil society, as these breaches of IHRL and IHL galvanised not only feminist disarmament campaigners, but broader disarmament groupings that sought to mobilise on a broader basis against the prospect of drone swarms and lethal autonomous weapons and AI-weapons systems. The specific actions of CODE PINK and the Campaign to Stop Killer Robots (CSKR) receives attention in Chapter 8 through feminist lenses. Their actions are also clear examples of discursive practices aimed at anti-drone messaging and at exposing the norm violations they implied. IHL norms have more supporters than the rhetorical flourishes of the United States' norm entrepreneurial justificatory contestations of existing norms that mitigate against drone strikes have countenanced. This has become clear.

In an opinion piece for the *Washington Post*, Moyn and Wertheim (2019) point out that even despite the shocking release of the Afghanistan Papers, which showed a policy quagmire linked to the war, the public response to the information of poor decision-making amidst great losses was muted, as it seemed that the United States had completely normalised war. They argue that the United States has completely slid away from being able to claim that it represents peace in the world, despite decades of pursuing this frequently through the creation of laws and institutions (including being a founding member of the United Nations) aimed at protecting peace to placing it high on its post-Cold War list of priorities. However, it seems that the deep changes wrought by the events of 9/11 inaugurated the concept of an infinity war.

According to Moyn and Wertheim (2019):

... US leaders from both parties chose another path. War – from drone strikes and Special Operations raids to protracted occupations in Iraq and Afghanistan – has come to seem inevitable and eternal, in practice and even in inspiration.

If one considers the United States' long history of fostering peace, it is interesting to reflect that it is the United States that sought a United Nations that could halt the 'scourge of war', and it is the United States that urged the body to outlaw the use of force, except where it is expressly authorised for self-defence.

It therefore is all the more noteworthy that it is once more the United States that is engaging in justificatory norm contestation of the very use-of-force principles it played such a great role in enshrining in Article 51 of the UN Charter in order to permit altered norms of self-defence

through drone strikes. It is staggering to realise that the United States has undertaken more armed intervention following the end of the Cold War than during it. They argue that the country has turned away from the vast array of international prohibitions on war that chafe its norm entrepreneurship. It is chafing at the very restrictions it crafted itself and, as we see in the rhetorical justificatory norm contestation analysed here, seeks to justify exceptional use-of-force approaches through Presidential rhetoric. From Iraq to Kosovo to Libya to states that live under drones such as Pakistan, Yemen and Somalia, it seemed as if the use of force became a tempting first, not last, resort, thereby altering the appetite of one of the world's key superpowers to tug at the normative skeletal legal structure it helped build to foster enduring global peace. The subsequent norm activism that created the concept of 'anticipatory self-defence' was rapidly seized upon by other states such as Russia, which used it expressly to invade Georgia in 2008 and the Ukraine in 2014. These acts that tear at the very fabric of Article 51 of the United Nations Charter endanger the international system and global peace. Amidst rising levels of geostrategic stressors, Moyn and Wertheim (2019) argue in the *Washington Post* that international law hardly features in the decision-making of the United States on war and peace decisions, as this study explores. Instead, such choices are often the subject of considerable rhetoric, discourse, argumentation and norm contestation, whether in political speeches or in graphic and gripping cinematographic depictions, as we shall see in Chapter 5. Whilst the Congressional War Powers Resolution of 1973 has historically sought to curtail the worst excesses of an imperial-style Presidency, the sheer levels of Congressional acquiescence present during the presidential wars waged in the era of terrorism and counterterrorism policy made proper public accountability a mere shadow of its former self. This requires a level of restitution of the legislative arm of the United States Congress and Senate in such decisions and their execution.

It seems likely that the United States Congress will become far more active and, as it relates to Iran and Yemen, there are early signs that it wishes to claw back some of its authority over the conduct of war in Yemen in particular, where drone strikes are used extensively as the weapon of choice. Only a once-more powerful United States that returns to its norms-based principled code of respect for human rights would have the legitimacy to try to keep the architecture of peace intact if other nations were to start following its current lead in engaging in constant justificatory norm contestations of the use of force and the impact this has on the principles of human rights protection. This is ever truer in a world where great-power competition, invoking the ghosts of the Cold War, is back on the world's radar.

One of the key issues that arise out of the rhetoric deployed across the speech acts analysed in this chapter is the extent to which this puts human life in danger. Whilst it may seem trite for security hawks, even 'murderers' have a right to a trial before summary execution due to the

overriding human rights protections that exist in international law, specifically the right to life. The way drone strikes operate clearly shows the pressures they bring to bear on IHRL and IHL more specifically (in terms of proportionality and discrimination questions), even where a target can legally be argued to be a legitimate target. What the drone strikes and justificatory drone norm contestation rhetoric and discursive practices clearly show is perhaps that it is true to say that having such faith in the technical weapons capabilities distorts the very fundamental moral reasons for engaging in warfare. Drones run the risk that, instead of the ends guiding the means, modern warfare tactics could get it the other way around. Drone strikes are, despite rhetorical defences to the contrary, a deep violation of core tenets of the just-war theory. Creating a 'clean war doctrine' cannot ever negate this fact, and merely updating a centuries-old doctrine for the 21st century by adding a sprinkle of technology and 'clean' deaths.

At the very heart of all the speech acts analysed in this chapter is the notion that drones used in counterterrorism action can validly be said to be covered by the self-defence provisions catered for in Article 51 of the UN Charter, and that their consequences meet the specific threshold of proportionality. These are highly contentious assertions as we have seen, and as Chapter 6 will show. These are rhetorical justificatory norm contestation arguments that seek to stretch the boundaries of Article 51. Drone pilots (whether US Air Force ones or contractors that work for the CIA) are legally organs of State and, as such, their actions matter greatly, as do the specifics of the chain of command under which they execute orders to kill targets. So does the question whether such orders emanate from the Department of Defense or from the CIA. These are not mere contingent niceties of a clear policy; they are vital legal questions that raise profound normative questions for the entire international community of nations and the system it has built to solidify peace and security. As we see across the speeches in this chapter, similar arguments, themes and frames are offered that speak to these issues in rhetorical terms.

All of the speeches are carefully crafted to constitute a compendium of norm contestation, of justificatory contestation of internalised and institutionalised norms, in order to carve a discourse infused with the 'clean war doctrine' that can completely lower the associated costs of the political fallout of drone wars. Beyond the clear legal considerations, which are robustly present in all the speeches in this chapter, lie moral questions that engage the public imagination and that cannot be answered fully by legal fine lines of crisp argumentation. These include whether drone strikes fuel anti-American extremism, whether these strikes are actually properly legal when limited transparency and information are available in covert drone wars, whether every single strike on a strike-by-strike basis would be considered legal according to all the criteria, let alone moral in terms of existing norms. For such profound moral gaps,

rhetorical speeches aimed at convincing elite public opinion is insufficient to appease proper accountability demands for the real moral costs and deeper impact on the domestic body politic. All of this fails to answer real questions about whether such drone wars render the American public entirely more vulnerable in the longer term by placing them at greater risk of rising extremist reactions.

It is important to emphasise throughout the analysis of the rhetoric looked at in this study that the drone itself is not the issue, as it is not a prohibited weapons system. However, it is a unique weapons system with unique capabilities. It uniquely surfaces deep normative questions and undercurrents that are both geostrategically relevant to the pressure that their use places on Article 51 of the UN Charter, as well as the pressure that the consequences of the use of this weapon system place on IHRL and IHL. Here there are distinct nuance differences from older weapons systems due to crucial just-war questions of discrimination and proportionality that pose specific challenges to practical protection against indiscriminate and disproportionate bodily harm (and rights violations) of primarily civilians, despite the fact that specific targeting decisions may be legally compliant.

What we have to consider when looking at the norm contestation question we see in rhetorical justificatory assertions by a powerful state in the international community is whether the limits to self-defence in Article 51 of the UN Charter would be at all meaningful if broader interpretations urged by the persuasive arguments launched by powerful states in speech acts were to succeed on the global stage. If they could succeed, irrespective of the weapons systems deployed – whether drones or others – one of the most crucial pillars of the maintenance of international peace and security would be weakened considerably. If this were to occur, there would be no practical restraint left in the global community to curtail the self-defence claims of nations seeking to use force in a variety of scenarios and, arguably, no handbrake for any future great-power conflict or war that would leverage the arena for justificatory norm contestation and fashion it to its own purpose. Notions of self-defence are restrictive for good reasons, and are specifically built into the UN Charter as exceptions in Article 51. Despite norm entrepreneurship to alter this by drones and other means launched by one of the Charter's key architects, such changes must be properly traversed analytically in order to create greater awareness and at least the scope for resistance to the contestation of norms lest crucial pillars of the international system were to regress at the levels of norms.

The questions of 'imminence' that are used to justify attacks and drone usage must be weighed critically and crucially. At the time of writing they surfaced once more in the Trump administration's targeted drone strike that took the life of Iranian General Qassim Suleimani, raising the norm contestation of Article 51 once more – this time against an official of a

sovereign state. As such, this is a new frontier in the drone discourses around Article 51 and in the geostrategic tensions that may result from this new strike. One of the most important elements that emerges in this chapter on the speech act analysis of drone strikes and norm contestation is the extent of repetition of themes across the speeches, which shows us the consistency of the 'skeletal frame' of these rhetorical interventions across different administrations, as Fairclough (1989, 2014) has urged us to do. Given that this is being done by a powerful state, the link between language and its use and power could hardly be clearer.

For the sake of the completeness of the analysis, and given the important role they have both played in the Obama administration's drone wars and its rhetorical defence, it is interesting to note what John Brennan and Harold Koh have had to say on the evolution of the architecture that they had built in recent years. In commenting on President Trump's Suleimani drone strike in particular, Entous and Osnos (2020) point out that John Brennan made it clear that he believed that the Suleimani strike was illegal and that it could not be rendered legal by a lawyer calling it thus. For him, the targeting of the Iranian general was a first, as neither the Bush nor Obama administrations had ever considered the targeting of an official of any other sovereign state. This clearly signalled a hardening stance against Iran on behalf of the Trump administration. What is noteworthy is that this hardening stance already dated to December 2018, when the Iranian Revolutionary Guard and the Quds Force were added to the United States' foreign terrorist organisations list. The risk of such a step is clear, as it would render all United States forces and special forces operations fair game in any tit-for-tat spats using drone strikes. This can create the prospect of a real drone war between sovereign states.

Harold Koh has far broader reservations about the extent to which executive power has mushroomed in national security terms, and what form and scale of a constitutional rebalancing this would require domestically within the United States to assist a broader normative revival. The speeches analysed in this chapter are a mere vignette of a long trajectory of the rise and rise of presidential power in the United States – especially in the nexus of national security and foreign policy against the backdrop of a broad interpretation of Article II of the Constitution of the country. Interestingly, as these trends have evolved, the former State Department legal advisor, Harold Koh (2019), who famously coined the 'law of 9/11' phrase and then made the key arguments of what this represented for drone strikes, launched a strong plea for the evolution of unilateral presidentialism to be pushed back – especially by a stronger national security and foreign policy oversight role for the United States Congress, which he urges ought to wake from its acquiescent slumber to push back against further erosion of its role in the separation of powers framework. Such a pushback would be against the erosion of deeper Constitutional forces of checks and balance that could suffer irreparable harm. He argues that only a return to the constitutional norms of shared

Presidential and Congressional national security powers would be able to restore some lost ground, and asserts that what is at stake is a domestic justificatory norm-contestation process of what he calls the ‘national security constitution’, which is a substructure of constitutionally founded norms and principles that protects the operation of checks and balances in American national security policy.

According to Koh (2019:4):

When modern national security threats arise, weak and strong presidents alike have institutional incentives to monopolize the response; Congress has incentives to acquiesce, and courts have incentives to defer, creating an interactive dysfunction that disrupts constitutional norms that United States national security policymaking should be a power shared.

Koh (2019) believes that only a massive overhaul of national security and the creation of national security ‘framework statutes’ will really be able to restore Congress’ proper role and deeper constitutionally founded checks and balances. Despite Koh’s forceful argument, Binden, Goldgeier and Saunders (2020) argue that, despite the efforts by Congress and the Senate to place restrictions on the Trump Presidency’s ability to launch unilateral military action against Iran (in the wake of the Suleimani drone strike), Congress remains in a fairly weak position to restrain the President overseas. The argument that the balance of power over foreign policy has shifted decisively to the executive and remains strongly in the hands of the United States Presidency as a norm entrepreneur remains. This is exacerbated by the constant and persistent reliance on the Authorisation of the Use of Military Force (AUMF) resolutions of 2001 and 2002 that formally triggered the wars in Iraq and Afghanistan, respectively.

In this chapter, we have followed Fairclough’s (1989, 2014) three-dimensional model. In doing so, we have subjected key speeches of President Obama and critical Obama-era officials that dealt with drone strikes to clear descriptions of the core content of these speeches as they relate to drones and drone strikes (text analysis), interpreted how they have sought to portray certain facts about drone strikes and what they represent by looking at four key questions that sensitised us to the themes present in these speeches (processing/analysis), and explained what this signifies for specific norm contestations and norm life cycles evolving from the use of drones (social practice and analysis). In following Fairclough’s model, we have seen how the United States has used language to exercise power and exert influence over existing norms that are internalised and institutionalised, and how this has placed pressure specifically on the use-of-force norms relating to drone strikes that are present in the UN Charter.

Chapter 5

Representations of Drones in Film: Critical Discourse Analysis and the Contemporary ‘Drone War’ Film Genre and Norms

5.1 A Multimodal Moment: Cinematography, Contestation and Drone Norms on Screen in Fiction and Documentary Film

Flowerdew (2018) reminds us that multimodal discourse analysis functions at the macrolevel of corpus linguistics. As has been shown in previous chapters, the notion of multimodal discourse analysis follows the works of Kress and Van Leeuwen (1996, 2001). They were heavily influenced by the pathbreaking work of Halliday (1978) and the original set of critical discourse studies adherents.

What is at issue in multimodality is the question of different semiotic resources being deployed to re-contextualise social practices for ideological purposes. In MMCDA it is important to remind ourselves of context and, in the case of this part of the study, which looks at the representation of drones in film and cinematography, the broader context of the discursive construction of terrorism, violence and counterterrorism are all present. The preceding chapters have dwelt on this at length to show how the post-9/11 counterterrorism responses and ‘ideational frames’ adopted in pursuit of the war on terror shaped the context of the discourse on drones significantly. This is not only true of text (as has been shown in the political speeches analysed as a selected dataset in the previous chapter), but also for film as a distinct semiotic form, as will be shown below.

Bhatia (2018) argues that conceptualisations of terrorism were transformed over time, leveraging highly patriotic rhetoric and the usual ‘us/them’ relational polarisation (classic aspects of how discourse is used) in changing political and social contexts. This work shows that this evolution of conceptions of terrorism constitutes the source or pretext for war, the war in practical progress and the blame allocations (and negotiation) that marks the end of war (Bhatia, 2018:444).

In this chapter I am interested in what this conceptualisation looks like in the semiotic form of film as far as drones and the emergence of what has been dubbed the ‘drone war’ film genre is concerned. Bateman (2018) highlights that there are productive opportunities for combining CDA-derived questions and methods with a deeper sociocultural analysis of film and states that this potential has hardly been tapped by research to date. Whilst CDA is a latecomer to a field in which the critical analysis of film has its roots squarely in media studies and visual communications, it has a role to play, as this study will show.

It is possible that CDA may have a distinctive contribution to make to the analysis of film. Bateman (2018) warns us to ensure complementarity between CDA and the field of film studies, where apparatus theory, questions of gender, genres, the documentary/fiction line and social commentary and thematic configurations all have a rich analytical history that affects a CDA contribution to the analysis of film. We will be mindful of this cautionary note as the analysis of the representation of drones in film proceeds to build the arguments in pursuit of the research questions of this study. Bateman (2018:622) also reminds us that documentary film is, in a sense, “film as CDA”, given that documentaries have the clear and often explicitly stated objective of pursuing arguments or, at the very last, surfacing them somewhat more clearly where they may be buried in either secrecy or obscurity.

In this study on drones and drone discourses via various semiotic forms, we look at films that are a form of social critique following Bateman’s injunction that films that craft social critique are significantly relevant aspects of CDA, given that they shine a light on complex or problematic discourse practices in ways that are very similar to the manner in which text also does this. According to Bateman (2018:622):

Well attested and popular areas of this kind of narrative film include journalism and the use of corporate or political power to suppress information. Such films, although fictional, nonetheless seek explicitly to raise awareness so that the problematic practices may be challenged.

This is exactly what is at stake in this analysis of drone filmography, as it is a genre that taps deeply into what is at issue in an arena of covert drone warfare, where political power and exigencies of security often coincide to suppress relevant information the public require for political accountability. Apart from such films that may have explicit political intent, there are other, ‘purely’ fictional films about drones that nonetheless have more veiled critiques embedded in them (Bateman, 2018:622).

Bateman uses references to Joe Russo’s *Captain America: The Winter Soldier* (2014) and *Captain America: Civil War* (2016) as examples that vividly problematise the uncomfortable trade-off between security and surveillance in the context of the US Patriot Act. He shows us how this celluloid world of film can make realities visual and remake them by doing so, and how they rely on our own awareness as the audience that this is occurring and being used to great effect. In this way, each one of us as film viewers are deeply and constantly engaged in a CDA process ourselves, and we do this far more in film than we do by engaging with written text. This is part and parcel of a more visual modern era (Bateman, 2018:628). In our increasingly virtual and visual worlds, it may be that people will be more actively engaged in CDA practices through the medium of film and in social media than through texts.

This chapter also follows the injunction of Way Ng (2018) to look at metaphor in any form of critical research. We must bear in mind that CDA, and also MMCD, are engaged in probing the ideological structures of discourse and how these create and/or reproduce societal dominance. In this, metaphor plays a key part in the process of cognition. Metaphors help us to analyse the concepts people hold of reality and how different structures of thought and thought processes that may be part and parcel of dominant ideological paradigms are present in discourse.

In this study, we are interested in the metaphors that are used to represent and describe drones: these range from bland names such as ‘remotely piloted aircraft’ (RPA) or ‘unmanned aerial vehicle’ (UAV) or ‘drone’ to their actual product names. The latter are equally evocative metaphorically speaking, and range from ‘Predator’ and ‘Reaper’ – both names are metaphors of death – to ‘birds’, as they are euphemistically referred to by the US forces and the pilots who fly them. In this sense, we must be sensitive to the role metaphors of drones play in talk, text and visual representation.

In probing the role of drones in film following Fairclough (1989, 2014) and his injunctions, we must make some core observations about context. Robert Campbell is clear minded about how drones are reshaping our conceptions of the world. In “Drone film theory: The immanentisation of kinocentrism” (2018), a crucial essay, he probes the role of drones in cinema and contemporary culture. Like other forms of media, drones “separate humans from the world and from each other” (Campbell, 2018:52).

Drones embody the entwined cinematisation and militarisation of our 21st-century society. These soaring silver objects can both look from a distance and fight from a distance, rendering the unseen drone operator ‘god-like’ (thunderbolt, or Hellfire missile wielding) while reviewing an endless stream of images for action. We live in a relentless surveillance world where time itself may have been conquered, as we see in terms like ‘permanent war’, ‘permanent work’, and ‘permanent media’. Invoking the infamous *Terminator* 1984 film of James Cameron, Campbell (2018:55) argues that such networked machines that ply our skies are indeed in some sense a ‘Skynet’ that will bring us closer to the precipice of the apocalypse. He reminds us that the logic of surveillance via the drone optic is a clear logic of war drawing on the work of Paul Virilio (1989).

Campbell (2018:58) tells us that, in a sense, the drone will be omniscient and omnipotent as it will have the “will to see all, know all, at every moment, everywhere, the will to universalized illumination”. This is a powerful optic indeed. He argues that this sentiment also captures the weaponisation or militarisation of vision. This is aptly portrayed by one of the characters, Lt.

Gen. Jack Johns, in the drone pilot film *Good Kill* (2014), when he says that they are not engaged in “a ‘just’ war”, but “just war”, as we will see in the analysis to follow.

The conception of time having been ‘conquered’ is also present in *Eye in the Sky* (2015), as Campbell shows us, with absolutely no distinction being drawn between work and leisure time for drone pilots and a near seamless militarised ‘zone of time’ presented by the simultaneous dramatic portrayal of events in the UK, USA and Kenya that appear to be taking place at the same time, irrespective of time zones, in the dramatic pace-driven evolution of the plot. Campbell (2018:58) argues that the drone war signals a one-sided war without risk of death – “in effect a war without war”.

In such a world, war is no longer confined to host nations. It is everywhere and permanent and, arguably, in service to capital. As Campbell (2018:58) makes, clear we are witnessing a world where capital no longer requires sides and humans become mere sacrifices. He envisages what he calls an “embryonic stage of this singularity”. He reminds us that we may only spot this singularity far too late when war itself has become a god-machine of war pitting us against one another. According to Campbell (2018:58):

... we shall only see it when the god-machine of war puts humans into war with each other, shrinking us first from the nation state to the city state and then into a general apocalyptic all-against-all as we pray to the drone-god not to send hellfire to kill us but to kill our neighbour for his sins first.

In unpacking some narratives on drones present in key cinematography selected for this chapter, it is important to reflect on the fact that there is a long and rich academic literature on the linkages between the security, intelligence and defence sectors and the Hollywood community when it comes to the genre of war films, and films on covert operations in particular. Consequently, it is not surprising to find this linkage as strongly as one does in this new-era war film genre of ‘drone war’ films that appears to be emerging, given its close affinity with covert operations.

However, what is perhaps new about this emerging genre is how it inducts viewers into the merging of the technology of these weapons and what is seen on screen in such ways that sometimes look eerily familiar, as they resemble the screens of videogames and cinematography, riddled with deeper levels of ideology about American hegemony and hegemonic power in security settings and where this places the ‘viewer’.

This is part of what Stahl (2010) has referred to as “Militainment Inc.” or the “military-entertainment industrial complex”. It is a theme to which he returns in later work to demonstrate how the public have been attuned to a “weaponised gaze” through surveillance

imagery and drone feeds on our screens. It is also a clear commentary on the channels that control our access to such imagery, which pose questions about embedded perspectives. As he says about the “weaponised gaze”, this itself represents a “a set of discursive practises that channel the civic understanding of violent conflict through the military apparatus” (Stahl, 2018:3).

This particular merging of the civilian and the military through the “weaponised gaze” has an odd disciplining function that lowers the citizen’s civic duty impulse to deliberate and debate the use of state violence, as it offers a “preservation of the world through the uncritical, docile circuitry of the weaponry whose purpose is to be fired. Such invitations have proliferated in recent years, working to harmonise the citizen with the dictates of military public relations” (Stahl, 2018:18).

Drones and their ‘straw-like’ visions and viewer images continue a long association between the human eye and military projectiles, which is present in Virilio’s (1989) work that views the history of war as a history of a rapidly changing field of perception that merges the human eye with weaponry. He famously describes the cinematic camera as a weapon aimed at civilians’ nervous systems that is therefore equally aimed at building myths, captivating and aggregating our attention and toying with our emotions, and thereby manipulating us and our morale. In this study, we will clearly be able to see the level to which we can argue that this continues in the new ‘drone war’ film genre that emerges post-2010.

Stahl (2013:659, 660) argues compellingly that the weaponised drone stands, in part, as a representation of the effective culmination of perfecting the vision machine. As the drone stands at the very heart of US military strategy, we must also see and pay attention to how the drone sees and how its way of seeing has moved into mainstream public perception. What we will see as we start analysing films is how the civic gaze – our own gaze as film viewers – aligns with that of the drone pilot and his or her universe, which consists of the control centre and a targeting screen. We will see how dominant and prevalent the drone pilot’s gaze becomes, and which by default becomes our own gaze.

What Stahl (2013) calls this “drone vision” was and is a significant discourse component in the specific selection of films for this chapter. It is also a key factor in the way, in a largely covert drone war, specific selection decisions are made about what we see and will see through the optic of the “drone vision”. Drone videos that circulate are effectively selected and carefully chosen in a war that is seeking a sense of “cleanliness” or “clean war” and that uses the clinical language of “surgical strikes” and “disposition matrix” decisions in targeted killing missions.

This language usage is in and of itself a representation of power and the control of drone narratives. We have nearly become accustomed, as we will see in the films selected for this

chapter, to the discourse strand and narrative that locate us in the drone war's drone control room itself, looking at selected targets that have to be eradicated in the public interest in a secret war. This has become a strong feature of the 'drone war' film genre that we probe carefully in this chapter via a selected dataset of prominent films that deal with drones.

This is certainly perhaps one of the key reasons why we see such a preponderance of 'drone vision' that takes the view of the drone pilot as its interpretative, if not partly 'ideational', frame, as it is these pilots themselves who become an anecdotal frame. We record their vision, their suffering in the 'kill chain', where they carry out orders, and the moral fatigue and PTSD they suffer. What we therefore see is a careful twinning or entwining of civic vision and ways of seeing with 'drone vision' on the individual and broader societal level. This is a carefully constructed narrative, given the secretive nature of covert war and the possible permissible ways to discuss it in society.

In probing the discourses and narratives on drones represented in cinematography and film, we therefore must take cognisance of the screen culture's militarisation, which Stahl captures so vividly in his work. Stahl (2013) effectively explores this cultural optic of the unmanned war and how our view has changed forever by looking through the drone camera ourselves. Some may argue that we are, by default, becoming active participants in broader and deeply embedded biopolitical, ideological and power battles through engaging with its gaze.

Many of these films we look at as part of our probing of a new 'drone war' film genre continues a post-Vietnam-era historical turn to embodied subjective experiences represented on screen. This therefore has a long historical lineage. Many of these films deal with the virtual yet embodied presence of 'god-like' drone pilots. Seldom do these films look at drones through the eyes of the victims of strikes or of the civilians affected by them. This is a job left entirely, or nearly entirely, to the genre of documentary, as we will see in the analysis that follows.

It perhaps stands to reason that the views of victims of drone strikes would be found in documentaries that have been described as 'CDA in film' (critical discourse analysis in celluloid form) due to their polemical nature in furthering narratives about drones. Given the covert nature of drone wars, it is perhaps apt to dwell, albeit briefly, on the linkages between intelligence epistemic communities and Hollywood in some war and covert operations films with a historical and more contemporary perspective.

In a chapter entitled "Hollywood, the CIA and the 'War on Terror'", Boyd-Barnett, Herrera and Bauman (2017:116) argue that much of the representation of the CIA in Hollywood film between 2000 and 2010 contained narratives that represent an "imperial vision of contemporary conflicts and in the process the films legitimise US geo-political and economic interests".

This is perhaps an apt cautionary proviso to which this discourse analysis of drones must at least be alive in the analysis of cinematographic representations of drones and drone discourses, as Fairclough urges us to be on the lookout for embedded ideological discourses and power relations. Such a focus therefore will remain a critical bedrock of this analysis.

Brady (2015) uses a performance study lens to probe the role of the drone in contemporary society. She uses a play (*Grounded*), a fictional film (*Good Kill*) and a short film (*5000 Feet is the Best*) to argue that the role of drones in popular culture and society is highly complex and that they have both positive and harmful effects in our world. This mixed bag of effects and complexity are the overriding themes of her conclusions about drones. Among these effects she highlights are the altering effect drones have on the states that have them, use them and use weaponised versions of them. For her, the mere possession and deployment of drones and armed drones forever alter a member state of the international community and its conduct. This is of great importance to a study such as this one, which seeks to look at new norms that are shaped by rhetoric, discourses in popular culture and state practices beyond words. Drone-possessing states are key agents in norm contestations and norm life cycles, as we explore in subsequent chapters.

Willmetts (2013) traces the links between Hollywood and the CIA as they relate to early Cold War cinema and how the enthusiasm for the spy genre has been reignited in the 21st century. He traces how filmmakers habitually sought some degree of government co-operation in their efforts to produce at least 'semi-documentary' representations of US institutions and how such semi-documentary films declined as defamation laws were liberalised and the Production Code Administration (a form of censorship) was closed.

This led to a 'New Hollywood' in the 1960s that would pave the way for quite critical portrayals of US foreign policy and the US government on screen. These histories matter, as films can also represent dominant ideologies that can structure and affect discourse. This is especially true in a context where much of the drone wars of the Obama era were covert, with a constant institutional scrap between the CIA and Pentagon over control of the programme and its execution. How these covert dimensions affect, or are seen in, film representations, or indeed may be absent through silence, which also speaks, is of interest to drone discourse analysis of films in this chapter. As we shall see with reference to the famous Oscar-winning Hollywood representation of the killing of Osama bin Laden by Joint Special Operations Command's SEAL Team Six, *Zero Dark Thirty*, these complex questions always hover just below the surface when we enquire about power, ideology and meaning-making through multimodal discourse, and different sets of semiotics and how they became the dominant feature in the 'drone war' film genre in which we seek to peel back these very layers to probe power.

Before conducting the analysis of the selected drone films in this chapter, it is important to briefly engage with two films that set some markers for the importance of understanding how narratives, including fictionalised narratives, can play an important role in politics and in crafting and shaping discourses when the lines between fiction and fact blur or are deliberately blurred. These are *Zero Dark Thirty* and *The Hurt Locker*. These films are also important they were, at least in part, crucially influenced by the intelligence epistemic community and the CIA.

These films are representations of a genre that has been dubbed separately 'Dark Americana' and were important precursors to subsequent drone films and the slew of 'drone genre' films that have proliferated since at least 2010. They are also selected as precursors of a brief analysis of how the post-9/11 war on terror 'ideational frame', and what Koh calls the "law of 9/11" in the previous chapter shaped the cinematographic responses, and how these affect the 'drone war' film genre that is expressly looked at and studied in selected film dataset studies in this chapter.

It is undeniable that Katherine Bigelow's film, *The Hurt Locker*, became an exemplification of the war on terror and how it became one of the most powerful global political narratives of the 21st century. Set in Iraq, where a combination of robots and soldiers are in tense situations, seeking to neutralise improvised explosive devices (IEDs), the film grapples with a myriad of complexities associated with this complex war of choice, which may still become the blueprint of modern urban warfare.

As Gadinger, Kopf, Mert and Smith (2016) highlight in their analysis, the film poignantly and pointedly shows the ambivalence, some would argue that ambiguity, of criss-crossing narratives experienced throughout the war on terror, are present. These narratives embrace the robotisation/technologisation and dehumanisation of war. They show the complex human face and the sheer conflict between being both a highly trained specialist abroad and a dedicated father at home. This notion of being a dedicated father would be one that could not be sustained from a feminist perspective, however, as the contrast between the public space and the private space that his wife inhabits is stark. He has no interest in the domestic private sphere, leaves his family to return to the war fold regularly for tours of duty in war zones where he constantly risks his life and fails every time to readjust when he returns. These are themes that crop up across different narrative strands and require noting, as we shall see a great feminist backlash to drone warfare catalogued in the subsequent chapters.

The *Hurt Locker* weaves one of the most complex webs of narratives that are important in grappling with and understanding the deeper trends in the war theatre of Iraq in the war on terror, and how these may be precursors of the urban warfare that will undoubtedly mark and mar the 21st century and global peace and security discussions.

In turn, *Zero Dark Thirty* (ZDT) was highly contentious. It became the subject of a formal inquiry about the level of co-operation that may have existed between scriptwriter Mark Boal (who also was the scriptwriter for *The Hurt Locker* and who has apparently also worked with the security establishment on information for scripts) and director Katherine Bigelow, and the intelligence epistemic community, including the CIA. This shows the deeper discourse on ‘the real’ and ‘the fictional’ death of Osama bin Laden and how it is represented in the film. Some went as far as calling it a new frontier in government-embedded filmmaking, which coincided with controversy about embedded journalism in warzones.

This cautionary tale serves to alert us to the interplay between fact and fiction in key visual narratives that can, at times, be critical to legitimisation strategies for certain controversial events or practices. Consequently, we need to be alert in our analyses of ‘Dark Americana’ or ‘drone war’ film genres. In such films there may be an even greater risk of entwining fiction and fact. We need to be on the lookout for any possible embedded ideologies – especially ones of hegemonic power in films that deal with security issues and war. As Montessori (2016) implores us, we must remember that truth and fiction and the line that divides these comprise one of the most crucial challenges for politics in the 21st century, as does the relationship between knowledge, truth and power, which shapes narratives and our perceptions of the world and how we derive meaning. These are risks that grow exponentially in a post-truth politics global context, perhaps marked most starkly by the rise of the Trump administration in the United States. According to Montessori (2016:58):

narrative is a powerful tool to engage in shared processes of meaning-making and of imagining and, ultimately constructing, an improved society. Narratives have the power to shape new realities.

Schlag (2016) conducts a critique of how the blurring between fiction and fact shaped the *Zero Dark Thirty* narratives and concedes that filmmaking is a highly politicised undertaking, as it indeed was in this case. He highlights how the film, despite its acclaim, was criticised for its claim that it was depicting authoritative truth as far as the death of Osama bin Laden was concerned and its glossing over of torture practices. He argues that the public discourse in the United States shows us that these films are consequential “‘re/presentations of politics for different yet ambivalent reasons”, and that this has consequences (Schlag, 2016:64). These reasons may have included how the depiction of torture as ‘effective’ could erode core global norms, or indeed how the representation of the ‘Islamist’ ‘other’ exacerbates ‘us/them’ relational polarisation in visual semiotic form. According to Schlag (2016:64), the CIA-Bigelow-Boal co-operation dates back to 2010, and the agency had “eagerly cooperated” with the

filmmakers. It is this co-operation that led to the film being labelled 'Dark Americana' and a new genre being invoked.

For Schlag (2016:64), 'Dark Americana' is hallmarked by a morally ambiguous and emotionally complex world filled with flawed if not pathological characters. As the film closes with CIA analyst Maya in tears and alone, weeping in the cabin of the Afghanistan-bound aircraft (following the successful killing of Osama bin Laden), we are left to wonder whether she is weeping for the lost life of one of her friends, lost lives of disembodied voices we hear during the film's opening scenes, or the loss of humanity or belief in humanity of an entire nation (Schlag, 2016:67).

Joyce and Simm (2015) call for Hollywood films to be more reflective on how they portray complex questions of international law. In a ground-breaking study such as this, which tries to combine different semiotic forms to answer research questions, these crucial questions will constantly hover in the background as we probe the drone film narratives of selected films in the subsequent section of the chapter. Whilst these films are not necessarily produced for their educative value in international law, they argue that attention should be paid to the "limits and ethics of presentation in the practice and portrayal of international law" (Joyce & Simm, 2015:296).

Far from being educative, it is worth observing that these Hollywood blockbuster films, and this certainly is true of the 'drone war' film genre, instead bring the audience and civilian population practically into the 'control room' of the war on terror. In the case of the 'drone war' films genre, we are brought into the space with the drone pilot, thereby manipulating our perceptions and making us more than passionately involved observers, if not active participants.

Joyce and Simm (2015) observe that there has been a post-Cold War turn in international law and it has consequently been widely represented in media and film discourse and, by extension, in popular culture. As they astutely observe, the Hollywood film industry is part and parcel of a political economy of film entrenched in deeper debates about the manner and form of community formation, liberal internationalism, US hegemony and English language dominance in global affairs (Joyce & Simm, 2015:97). In this sense, they label *Zero Dark Thirty* as a blend of the power of Hollywood celebrity and the war on terror narrative bent. To make the point even stronger, they point out that even though the film was praised for its technical filmmaking aspects, including the use of actual footage of the night raid taken from the night-vision goggles of the SEAL raid team itself, it was nearly entirely silent on contextualising explicit aspects of the international legal framework applicable to torture and targeted killing. The film blurred fact and fiction and fiction and documentary filmmaking. In the process,

international law was nearly entirely absent. One could argue that the war on terror itself, riddled as it is with ambiguity and created 'ideational frames', infected the film with the same ambiguities. This also makes it hard to decide if the film is a form of journalism, history, or human rights advocacy by default.

What is particularly striking, given the legal complexities, is how the film makes short shrift of the targeted killing of Osama bin Laden from the point of view of international law. The near complete absence of law and its complexity in *Zero Dark Thirty* is particularly troubling to Joyce and Simm (2015:312-318). Worse still, as they conclude: "What is unsettling about *Zero Dark Thirty* is that targeted killing and torture are presented as the subject of mass entertainment" (Joyce & Simm, 2015:318). Hasian (2014:464), in turn, argues that *Zero Dark Thirty* serves a purpose as a visual vehicle of American exceptionalism on screen that allows targeted audiences to ignore what other international communities have said about the legality of the targeted killing of bin Laden in the Abbottabad raid.

Gadinger (2016) states that most political scientists have not been well-equipped to study processes of narrative transformation. He notes that the war on terror is a highly effective narratological perspective, akin to and comparable with the 'Cold War' and free market's 'Invisible Hand' (Gadinger, 2016:70). He ascribes this seeming 'blindness' or lack of sensitivity of political scientists to narrative transformation to their profound focus on political elites' speech acts as a primary source of knowledge. He points to the important role film must play, especially with a view to narrative transformation via popular culture. This is exactly why this study seeks to bring together key political speech acts on drones with the representation of drones in film to bridge the gap between political elite speech acts and popular culture. This helps us to grapple with the drone discourses – embedded as they are in the war on terror narratological transformation of global security discourses.

Hollywood blockbusters are a crucial part of public discourse and meaning making and cannot be ignored by critical discourse analysts or political scientists. The films allow us to explore the underlying narrative patterns of political storytelling and, as such, allow us to study change in narratives in political discourse. It is a methodological entry point that aids us in moving beyond the formal political arena, which is often state-centric, to probe and comprehend discourse and narratological transformation and transformative forces a bit deeper: "Through the use of visual narratives, they come to represent the contested nature of producing legitimacy in democracies through central practises of storytelling" (Gadinger, 2016:73). Films can be legitimisation tools for the public at large.

Conversely, they can, equally, place the legitimacy of questions or actions in doubt. Interestingly, robotics and the entry of robotics into war feature in Gadinger's extensive analysis of *The Hurt Locker*, as does the theme of how closely we are taken into the world of Sergeant James, the team leader of the IED disposal team who dies in the opening scene. Gadinger states that *The Hurt Locker* was disturbing, as it brought audiences right into the heart of the logic of war, letting them experience its violence through the bland mundanity of the bomb disposal unit's constant, near monotonous yet dangerous everyday efforts to diffuse IEDs in an unpredictable urban landscape. In this way, *The Hurt Locker* took the very tentative steps to move audience consciousness into the narrative of robotic warfare, thereby paving the way for the slew of movies in the 'drone war' film genre that are set to be probed in the dataset below.

We now turn to our exploration of the themes and storytelling aspects drawn from selected fictional films and documentaries on drones to supplement the analysis of the speech acts of the political elite in the previous chapter that sought to shed more light on the covert drone wars of the 21st-century mode of war. This will assist in building a bridge between the space of the formal political speech act to an exploration of popular culture representations of these same issues.

In looking at key fictionalised and dramatised events that make the legal justificatory norm contestations of drone strikes real on screen in the shape of commanders, bureaucrats, drone pilots and strike victims, we look at how the broad public is being engaged directly in these norm contestations as active viewers who join in certain aspects of subjectivity. Goldstein (2017) draws our attention to how war is slowly receding from view in cinema in *Disappearing War*. She shows how the government has always taken a role in manufacturing an image of war, collaborating with Hollywood through the Bureau of Motion Pictures and the Bureau of Censorship. In this regard, World War II films famously romanticised aviators and mostly glorified the air force. Bomber pilots were depicted as heroic individuals who are intelligent and weighed down by the moral consequences of their decisions and actions. Noteworthy during this time is the moral ambivalence about the nuclear bombing of Japan and the role of the United States in mass civilian deaths. A more critical style of filmmaking informed cinematographic depictions of the Vietnam War. Despite the Vietnam War's more critical turn, films about World War II that were made after the Vietnam War did not follow its critical turn and returned to the hero narrative of prior years, in which the allied war effort is always depicted as a just one and hardly any attention is paid to civilian casualties of allied actions. Goldstein (2017) argues that, after 9/11 and the advent of the Iraq and Afghanistan wars, the 'sand films' that dealt with these conflicts emerged. Despite this increasingly gory emerging reality, depictions of World War II were still being produced that glorified allied efforts, but

rarely do we see the killing of civilians by bombing graphically depicted on screen. This absence of violence against civilians being accurately captured on film is an important silence that also speaks visually, and we will see that this plagues the drone war film genre somewhat less, where civilian deaths are at times depicted graphically on screen as if it were a manhunt.

Goldstein (2017:24) emphasises that both presidents Bush and Obama used operational tactics in Iraq and Afghanistan aimed at minimising civilian casualties, due to the extent to which *jus in bello* had evolved into a legal and philosophical set of norms after the Vietnam War:

Just war theory has shaped the way in which the United States fights its wars. Since public pressure, international opinion and lawfare demand that wars be fought following the exact precepts of *jus in bello*, the United States military has taken significant steps to reduce violence against civilian populations.

She highlights how this meant drones became the symbol of the United States' new approach to war, leading to its depiction on screen and its rooting in the public mind in the context of popular culture. She draws a parallel between the critical stance of the Vietnam-era war film and that of the Iraq- and Afghanistan-era war film, which is far more of a political and social critique about how war unhinges soldiers and how society battles to embrace their return to normal life. We see this emerging thematically strongly, as we shall analyse, in the drone pilot perspective and the realities of PTSD from killing at a distance, which most pilots depicted on screen grapple with.

We do this expressly in this study in order to see how the two interplay and interact when it comes to the narrative strands that are present in drone discourses, and what this may indicate about new norms at play in public consciousness when it comes to drones and modern covert wars. In this chapter, we look at what has been called the 'drone film' genre by probing three narrative elements:

- Narrative strands that place drone wars or drone discourses 'on the map' of popular culture by making investigative journalistic-style revelations about covert war;
- Narrative strands that emphasise the perspectives of drone pilots (a 'weaponised gaze' or 'drone gaze', following Stahl, as cited above); and
- Narrative strands that seek to place the voices of victims of drone strikes centre stage.

All the films that have been selected for this section of the chapter look at some dimension of these narrative strands and the specific subjectivities that they represent. These films are as follows:

- Film 1: *Dirty Wars* (Documentary)
- Film 2: *Eye in the Sky* (Fiction – Drama)
- Film 3: *Good Kill* (Fiction – Thriller)
- Film 4: *Drone* (Fiction – Thriller)
- Films 5, 6 & 7: *National Bird*, *Drone (Point. Click. Kill)*, and *Unmanned: America's Drone Wars* (Documentaries)
- Short film 8: *5000 Feet is the Best*

Asaro (2012) points out that drones and drone technologies have cultivated a variety of new subjectivities that we must take heed of. This is true for drone pilots, the crews that attend to drones, intelligence analysts who make crucial decisions on drones, and commanders who order drone pilots to execute lethal 'kill' orders. We are not only dealing with shifts in militaries due to this new weapon, but in the ways we 'see'. Such surveillance and lethal drones have shifted more than the boundaries of law; they are also shifting perceptions of themselves by involving us in their gorgon drone view-finder stare and the images they generate. What Asaro's work emphasises is how these new subjectivities play out in terms of the psychological stress of those who play a role in modern-day drone strikes. The key combination of surveillance with remote agency and lethal bureaucratised targeted killing are crucial real-world realities of the justificatory norm contestation that is at issue with drones. It is these subjectivities, and how they are represented in film, that our CDA on drones and norm contestation now turns to, as this is the level at which perceptions are transmitted to the masses at the level of popular culture.

What we are trying to look for in the analysis that is to follow below is a clear understanding of how the depictions of drones in fiction and documentary film respectively speak to the justificatory norm contestations we have highlighted in previous chapters – namely the manner in which the use-of-force justificatory norms contestation present in drone strikes challenges core tenets of internalised and institutionalised norms of the UN Charter and the human rights edifice of IHRL and IHL. We will see how different aspects of different films and their narrative strands and pivotal moments are clear depictions of these deeper norm contestations, but in multimodal visual or cinematographic form.

5.2 Justificatory Norm Contestation: The Representation of Targeted Killing in Fictional Film

5.2.1 Film 1: *Dirty Wars*

[*Dirty Wars* (2013) Documentary. Directed by Richard Rowley. [DVD] U.S.A. Sundance selects.]

We start at the beginning, when the solid work of an investigative journalist, Jeremy Scahill, probed the official workings of drone policies and some activities of the U.S. forces in Afghanistan, Yemen and Somalia. This investigative journalism really confronted the world of *realpolitik* beyond elite-level political speeches and came across some key revelations and profoundly hard truths about covert wars. Drones therefore really enter popular culture through film profoundly, with an award-winning documentary called *Dirty Wars* that focuses on Scahill and his work. This is the first film dataset case study for analysis. The films in our selection are important, as they move us beyond the ‘rarefied air’ of university campuses and speeches aimed at policy elites, intellectual public opinion and text-based public speech acts to the public mind space of those who have access to English-medium Hollywood film.

This documentary film follows the exploits of Jeremy Scahill, an investigative reporter of the *Nation* magazine, as he painstakingly lifts the lid on the ‘dirty little secret’ of the war on terror. This secret includes drone strikes, night raids and targeted killings, and entire new rules of engagement being used by U.S. forces, leveraging broad Congressional war power approvals granted in the wake of 9/11. In this process, he shed light on the covert operations of the Joint Special Operations Command (JSOC) – the home of SEAL Team Six that killed Osama bin Laden. The jacket cover of *Dirty Wars* is suggestive of this, as it describe the rise of this unit as the “most secretive fighting force in US history” that conducts operations that are carried out by “men who do not exist on paper” and who will “never appear before Congress”. The marketing material dramatically tells us that no target is off-limits for the JSOC, which has a kill list that includes U.S. citizens.

Dirty Wars deals extensively with the investigative journalist’s efforts, which ultimately would reveal the existence of the JSOC and of covert wars. It explores a specific night raid in Gardez in Afghanistan in 2010 that left a host of civilian deaths in its wake. It also follows other operations in Afghanistan, as well as in Somalia, and the killing of Anwar al-Awlaki and his son in Yemen. Scahill’s dramatised narrative storytelling style and pace of the narrative lends a profound sense of drama to the revelations of the JSOC, to which there is a meticulous build-up cinematographically speaking. This occurred in cinema at a time when there was a greater number of formal political speeches being made by the Obama political elite on these very issues, and to lift the lid as much as possible on drone strikes and drone policy to satisfy minimal accountability desires. Scahill’s critical and dramatised questioning of whether the United States had lost its moral compass in pursuit of “high-value targets” using drones is a poignant part of this film that in some ways feels like the curtain-raiser for the expansion of the ‘drone war’ film genre that emerged in subsequent years in both fictional and documentary

film. As we have seen in the preceding analysis, some of these ‘fictional’ films also seek to blur the line between fact and fiction.

There can be no doubt that the documentary-style of Scahill’s film is a polemical one and it has been placed on a parallel with some of the investigative work of Woodward and Bernstein, portrayed in the film *All the President’s Men*. The style of the film has been described as ‘noirish’, in and of itself carrying a tonality of foreboding as the revelation of JSOC is a dramatic one. It has also been called a ‘detective thriller’, as its goal is the stark revelation of the scope of ‘covert war’ undertaken by the JSOC. The power of Scahill’s *Dirty Wars* lies in the manner it draws its audience into the systematically racy revelations, and how it involves the audience’s emotions in the pace of the revelations. There is an equal measure of cinematographic technique and real revelations using washed out colours and fade-to-black-and-white scenes. The film is filled with horrifically vivid scenes of carnage and drone debris and civilian funerals, which places civilians as victims squarely on centre stage in the moral quagmire of covert war. There are many techniques that are used to instil a sense of dread and foreboding. For example, a deep sense of surveillance is present when and where Scahill meets sources in dark and secretive locations. The sounds of clicking cameras in these scenes compound the sense of both surveillance and dread. Whilst Scahill himself is very present as a protagonist in the DNA of the film, it nonetheless raises significantly important questions that have already been touched upon in earlier analysis of drone discourses about the use, and abuse, of lethal force. Whilst the political speeches at universities in the previous chapter raised exactly such questions in a far more formal setting and of an elite audience, it is perhaps Scahill’s more effective use of the documentary film form that spreads these questions and drone discourses through to the derma of popular culture and discursive awareness. Again, it should be emphasised, however, that Scahill’s film brings these questions and discourses more centrally into the realm of popular culture to allow moral questions about drone usage enter a broader and more diffuse level of discursive practice and discursive awareness.

Scahill’s clear polemical approach seeks to ‘speak truth to power’ without engaging with too much commentary by officials, who are somewhat reluctant to provide it – given the nature of covert wars. In one poignant moment in the film, an obscured source says about President Obama’s use of JSOC for covert wars: “We have created one hell of a hammer ... and for the rest of our generation ... this force will forever be searching for a nail”. Apart from some of the grim footage of civilian deaths, the film’s sombre music by the Kronos Quartet used in holocaust films such as Schindler’s List adds to the sombre, reflective tonality. As Scahill concludes: “The world has become America’s battlefield and we can go anywhere.”

5.2.2 Film 2: *Eye in the Sky*

[Eye in the Sky (2015) Fiction - Thriller. Directed by Gavin Hood. [DVD] United Kingdom: Entertainment One and Raindog Films].

Before embarking on a detailed plot description of this film, a couple of upfront plot markers needs to be identified. These are as follows:

- the transition from a 'capture' to a 'kill' mission against Al-Shabaab leaders and operatives in Kenya (including a British female).
- the multinational nature of what transpires on screen involving the United Kingdom, the United States of America and Kenya and Hawaii,
- the fact that there is a drone/special forces mission in play with multi-national dimensions,
- the profound consideration of civilian casualties and 'acceptable' margins for such losses statistically expressed as the mission becomes a 'kill' one, and
- the features of the chain of command and what it reveals about tensions and time lapses between civilian and military leaders and their roles in kinetic situations.

The plot centres on three high-level Al-Shabaab leaders who are to be captured in Kenya, initially with the help of Kenyan special forces. These leaders became a target as they had murdered a British-Kenyan undercover agent. The mission is supervised in the United Kingdom by a COBRA meeting that includes British Lieutenant General Frank Benson, two Ministers of Cabinet, an under-secretary and a presiding British female Army Colonel, Katherine Powell, who is in command of the mission. The mission uses the services of a United States Air Force MQ-9 Reaper drone under the control of Second Lieutenant Steve Watts, who is stationed at Creech Air Force Base in Nevada in the United States. A Kenyan field agent (Farah) uses small ornithopters and insectohopters, small miniature drones, to keep gathering on-the-ground intelligence of what is happening as the operatives start arming themselves with suicide vests. Importantly, this is the singular step moving to an 'imminent threat' categorisation that alters the mission from a 'capture' to a 'kill' mission. Col. Powell requests legal opinion from the British Army's legal counsel. This starts a near comical passing of the legalistic buck as legal counsel advises her to ask for authorisation from COBRA members, who seem unable to come to a decision whilst events proceed. The decision then is deferred to the U.K. Foreign Secretary who is abroad on a trade mission and who, without giving a concrete answer, defers the matters to the U.S. Secretary of State, who labels the American suicide bomber an enemy of the state enabling a strike. The Foreign Secretary

insists on a COBRA effort to minimise any collateral damage from the strike that has been authorised.

The crucial 'at risk' civilian (female) is a little girl, Alia, who sells bread near the house where the suicide bombers are preparing their murderous deed. We see the military leaders in the complex chain of command emphasising the dangers of the suicide bombs being able to leave the house, and the lawyers and politicians arguing about personal, political and legal justifications for a targeted killing in a friendly state not at war with either the U.S.A. or the U.K. The drone pilot, Watts, simply has Alia as an 'at risk' civilian in his sights and mind outside the targeted building. Farah, the agent on the ground, tries to entice her away by buying bread. Powell frantically orders risk assessments of her possible death, arguing with her risk assessment officer to bring it to 'narrow parameters' of civilian deaths of between 45% and 65% (on the lower side of the targeting band) in order to authorise the strike. She asks the officer to repeat the percentage, which she reports to the Chain of Command to authorise the strike. Watts fires the Hellfire missile and the building is destroyed. Alia is injured and one suicide bomber survives. This triggers a second strike ('double tap' in drone strike parlance). This time Alia is struck, and her parents rush to her side, but she dies on her way to hospital with a vivid civilian death directly tied to the strike. The scene ends with the civilian under-secretary berating Lt. Gen. Benson for killing from the safety of his chair. He is dismissive, telling her not to preach to a combat-exposed soldier and that she does not understand the cost of war.

Given the rich plot and host of issues at play, *Eye in the Sky* is perhaps one of the absolute best representations of the host of questions at stake in drone discourses, embedded as they are in war on terror narratives. It is a vivid representation of the power play, political power and legal reasoning and issues at stake in covert drone wars in a dramatised form. As Rich (2018) points out, drone warfare has a considerable "image problem" that makes it unlikely that cinematographic representation will easily allow for a major cinematic myth of drone warfare to develop that could rival the already well-established cinematic myth that has been established about special forces and covert operations.

Gregory (2018) points out that drone wars, such as the one depicted in *Eye in the Sky* discussed at length above, allow for the notion that these are not merely virtual but virtuous wars, as they are "wars without bodies" rendered via digital mediation. He draws on a specific case of a counterinsurgency operation in Khad in the Uruzgan province of Afghanistan, which was the scene of an MQ1-Predator strike on 21 February 2010. This was not an example of a virtuous war, as it effectively only killed civilians. He shows how the Predator crew interpreted everything they saw as hostile, directly leading to loss of life. These are the life-or-death

complexities that viewers are drawn into when they enter the ‘drone stare’ space, both visually and virtually, on the modern killing fields of 21st-century conflict – a complex moral and normative space to be in.

Rajah (2017) emphasises how the domestic bliss of the prospective civilian victim Alia contrasts with the harshness of the Kenyan military depicted in their gun-mounted jeep and the glistening eye-in-the-sky drone in the opening scene of the Hobbesian legal drama that is set to follow.

Fernandez-Pichel (2018) draws our attention to what is described as “violent cartographies” that enact particular discourses about place and identity and friend and foe. She compares and contrasts two drone films, *Eye in the Sky* and a Norwegian documentary *Drone*, and shows how the ‘us/them’ relational polarisation we see in discourse analysis is constantly at play in the different visual location shifts between the scenes of Col. Powell and Lt. Watts, the COBRA meeting and Farah, Alia and her family, and other civilians on the ground in Kenya, and how similar techniques do the same in the documentary about drones.

Bender (2017) identifies what he calls a “drone warfare genre” of significant new combat films portraying military killing by UAV. He analyses *Good Kill*, *Eye in the Sky* and *Five Thousand Feet is the Best* as selected case studies that portray the evolution of the genre. This is done to show how the mediated images of UAV combat shifts our perceptions by ‘dehumanising’ its actual effects. The genre then proceeds to depict pilot trauma as the most significant kind, as the pilots are constantly exposed to images of violence. The use of fiction for the dramatic scenarios assists us in engaging with the deep legal and ethical questions they pose, as they are part of a set of ‘ideational frames’ deeply connected to the war on terror. In this regard there is a very particular drone discourse space. One could argue that the oversimplification, if not ignoring, of some of these issues of international law and ethics we see in *Zero Dark Thirty* may also be present in other films in the ‘drone warfare genre’ style – to a lesser or greater extent, as we shall see. Arguably, *Eye in the Sky* shows up some of law’s more inhuman aspects, as it literally weighs humanity by targeting decisions in legalistically expressed terms, with us, the viewers, present in the drone control room and potentially implicating our own ethics.

From a more feminist perspective, we also see questions of gender present in the ‘drone warfare genre’, where they are both the victims as well as the perpetrators of violence. In one film, we have three crucial female characters in *Eye in the Sky*: Alia the civilian, Col. Katherine Powell, the military commander in the strike chain of command giving the ‘kill order’, and the

British citizen who is part of the terror operation unfolding on the ground in Kenya. Far from not being visible, women are both protagonists and victims here.

Interestingly, the plot and release of *Eye in the Sky* coincided with the targeted killing of two British citizens in Syria (Reyaah Khan and Ruhul Amin). They were killed by a drone strike in August 2015 as they posed an ‘imminent threat’ to Britain. In this strike, the United Kingdom wholeheartedly adopted the United States’ approach to the targeted killing of its own citizens. In this sense, fact and fiction collided, with these real-world strikes and the *Eye in the Sky* fictional plotlines criss-crossing. *Eye in the Sky* is at its core a film and dramatic representation of the omnipresence of law in modern war and drone discourses, and we vividly see this portrayed throughout the film as the mission changes from a ‘capture’ to a ‘kill’ mission. We see how legal criteria are applied, how margins of risk are used for the killing of civilians, and how legalistically the chain of command is followed. Visual images of drones and control rooms and drone feeds in targeting scenes are replete in the film, as is the fluid sense of time as dramatic events unfold in Kenya, the U.K. and the U.S.A. We see how the legal debate evolves slowly as rapidly changing events evolve on the ground. Law and kinetic operations are always locked in a macabre dance in these plot lines of the ‘drone warfare genre’.

The film very effectively depicts how law and violence converge in an alarming manner. We see war represented as omnipresent and eternal as it plays out in the film, which is replete with the language of ‘war’ even though the United Kingdom is not ‘at war’ with Kenya and that Al-Shabaab operates from the Horn of Africa. The film posits that international humanitarian law is applicable, as the U.K is at war with Kenya. There are equally alarming convergences between military and humanitarian language. This recalls the caution-inducing words of Joyce and Simm about *Zero Dark Thirty* and the near absence of international law in the cinematographic depiction of the killing of Osama bin Laden. In a certain sense, law is both present and deeply absent on screen. The Attorney-General figure in the film perfectly captures the inhumanity of law: “... there is a legal argument on why we should and another on why we should not strike, you need to make a decision.”. The film reminds us that the technical language of international law can ignore or obscure the pain and suffering of populations that live under drones, and the fact that claims are made, and not adequately contested, that drones provide efficient, effective and humane ways of waging war.

These issues are strongly on display in *Eye in the Sky*. The film, and the evolving reality of U.K. targeting its citizens in Syria using the contested U.S.A. approach of ‘imminent threat’ to do so, remind us that, despite contentions in speech acts by politicians to the contrary, there are no ‘surgical strikes’ in drone wars – overt or covert ones. In fact, once a drone is deployed carrying hellfire missiles, the notion that any drone can be ‘surgical’ in its consequences is

unmasked by the devastation that follows in terms of the impact of shrapnel and the profound impact on human lives, as we see made clear by the human rights lobby in our next chapter. The language of international law seems strongly inept in the plot of *Eye in the Sky* to give credence to the ethical and real-world consequences of unleashing drones that fundamentally destroy the human body and do not only take lives. What must be noted and considered is that it may not be international law itself that is inept, but its mode of representation in its depiction on screen. In fact, as we shall see in the analysis in the subsequent chapter of the pushback against the United States' drone strike justificatory norm contestation efforts, international law is rather clear on these questions.

5.2.3 Film 3: *Good Kill*

[Good Kill (2014) Drama. Directed by Andrew Nicol. [DVD] U.S.A. IFC Films].

In *Good Kill*, we view the world through the eyes of drone pilot, major Thomas Egan. His view of the world is shaped by his drone screen. He is stationed in a little anodyne drone cubicle in Nevada near Las Vegas, which contrasts starkly with his history as a USAF F-16 war fighter pilot with six tours in Iraq. As a married man with two children, he lives an often-surreal suburban life off base that is far removed from his MQ9-Reaper drone joystick, which represents the world of the war on terror that sees him pilot this drone over Afghanistan and later over states such as Yemen and Somalia. He and his crew fly these later missions under the direction of 'Langley' (a metaphor/name for the intelligence epistemic community and the CIA's physical headquarters based at Langley in Virginia), thereby introducing the agency-defence tension – so prevalent in drone wars and drone discourses and silences concerning covert operations – and the importance of greater transparency about drone policy, which creates the context that informs discursive and societal practices on drones, drone texts and drone representations in film.

Egan is an excellent fighter pilot who is taking a tour flying UAVs in anticipation of moving back to G-force power in an F16 as soon as he completes his 'joystick' assignment piloting drones. At first, he experiences this new assignment as stressful but benign. However, this sense becomes darker as he is increasingly asked and ordered to target targets in Yemen and Somalia that are far more morally questionable. He develops a deep sense of unease as he is asked to target 'terrorist cells', public buildings containing civilians and obvious civilian targets, including women and children.

As a form of breaking the monotony of the relentless killing routine, he offers to fly a surveillance mission for some troops to aid their sleep and, on yet another such mission, he

sadly watches as troops are killed by an IED without him being able to protect them. He has a violent altercation with his wife back in the suburban setting when she insists to know more about what he does. As he tells her she is horrified and leaves him, taking their children to Reno, blaming his violent and drinking ways. Egan starts disintegrating mentally and when a CIA controller orders another strike on a small group of civilians, he fails to comply by faking a UAV glitch to save lives. This is then revealed to his commanding officer, who limits him to a surveillance and not attack role. The intimacy drone pilots develop with the targets they observe is on display when he sees a man whom he has seen raping a woman many times approaching the compound where she lives yet again. Having been warned that this man is obviously a bad man, but “not our bad guy” in the words of his mission’s intelligence officer, Egan nonetheless takes the law into his own hands and sends his staff on a break and proceeds to use the surveillance drone to attack and kill the rapist. *Good Kill* closes with Egan going AWOL (absent without leave) from the base and leaving Nevada to join his wife and children in Reno. The sense of a deeply troubled conscience is starkly on display in the portrayal of Egan the drone pilot. Given the regularity and reality of extrajudicial assassination, military ethics are touched upon, but not developed in the plot of the film. The even deeper accountability and legal problems are only hinted at, as Egan passes from military to intelligence commanders at ‘Langley’ – a legal Achilles heel of covert drone wars. The fact that these disembodied ‘intelligence officers’ are in a chain of command that takes a member of the air force into ‘war’ decisions in places like Somalia and Yemen sees his unease and dread as a fighter pilot increase. Whilst his emotional anguish is clear, the plot does not grapple with the deeper underlying legal and ethical or moral reasons for this deep unease that sees him disintegrate gradually. Once more, law and international law are addressed inadequately in the narrative plot of the film. The film vividly shows the veritable alphabet soup of acronyms that inform the targeted killing instructions of a disposition matrix that guides these decisions and helps us grapple with how this itself makes the ritual of killing strangers abroad as terrifyingly mundane as online shopping. This is a powerful critique of the normative contestations that are emerging around drone strikes, as we see markedly on screen. The notion that taking a human life could ever be morally equivalent to ‘internet shopping’ unmasks web-based killing as a rather brutal practice.

Good Kill tries to make a strong case that there is something about the new weapon of war – the drone – that sets it apart morally from its technological-advance-in-war predecessors. This is done through Egan’s extreme emotional anguish being portrayed acutely. Whilst these issues are explored in lengthy monologues, these are not powerful and convincing enough to alter perceptions of the drone being a uniquely and morally challenging new weapon. The moral murkiness of the targeted killing business is reflected in the moral morass and

murkiness of the orders to kill and the targets identified. This is highly effective. From Egan's emotional collapse we can see that, for the drone pilot himself, there is no 'good kill' (i.e. a clean, efficient airstrike). We can see Campbell's godlike view or 'God's eye-view' firmly on display on Egan's screen. The shifting chain of command that occurs when his commanding officer is replaced by the CIA, who subcontract his unit, is an important part of the plot development, but is only a mere hint of the greatest complexity not only in covert drone wars themselves, but in discourses about them that are not always transparent. The booming and commanding CIA voice comes from a perhaps aptly disembodied speaker phone, which adds to Egan's long-brewing personal crisis. While the film portrays the distancing effect of technology rather well, it grapples with ethical complexity and the emotional dissonance unleashed by these new technologies. The portrayal of how all-powerful technology robs us of our humanity is a central theme in a film that shows, through the gentle rebuttal of Egan's requests to discard the UAV to return to his F-16 – how drones have nearly entirely superseded the aerial combat of old.

Good Kill also brings the 'pattern-of-behaviour' signature strike to the fore, one of the controversies of Obama's drone wars, and the rather loose rules of engagement under CIA command depicted in the film. The technician Zimmer is used to invoke the justificatory post-9/11 ideational frame for the war on terror's drone response. His motto is "Fly and fry" – hinting at the targeting of the 'other' identified post-9/11. Given how humans are portrayed as seduced and completely hypnotised by machines in this film, we are tempted to ask whether they have forfeited their souls, as there is a fair amount of biopolitics present in *Good Kill*. Biopolitics and 'dangerousness' are present in the fact that people's behaviour can now mark them as sufficiently dangerous and threatening so that this algorithmic decision-making can literally result in their deaths. We look at this more closely in the analysis that follows below. On 18 November 2015, former U.S. President Barack Obama received an open letter from four USAF whistle-blowers, as cited in Maurer and Graae (2017). These four were PTSD-afflicted former drone operators who all lamented inflicting systematic loss of life. This marked a seminal moment of scepticism, only fictionalised before in *Good Kill* but subsequently captured effectively in the documentary *National Bird* and *5000 Feet is the Best*, as we will see below.

5.2.4 Film 4: *Drone*

[Drone (2017) Thriller. Directed by Jason Bourque [DVD] Canada. Screen Media Films].

This thriller is a unique representation as it makes the civilian victims of drone strikes very present in the plot, moving us far beyond the drone control room and its technical images and legalistic decisions. The victims in question are a mother and daughter who are killed by a CIA

drone strike in Pakistan. Their surviving Pakistani relative (Imir Shaw) shows up on the doorstep of the CIA civilian contractor who piloted the drone that killed his family (Neil Wistin). It is a thriller that is pregnant with innuendo and expectant plot developments, as many aspects of the drone discourses we have seen and narrative strands of the role of CIA contractors are unmasked, along with the notion that these targeted killings can happen anonymously with no accountability or blowback. The depicted Pakistani drone strike, in March 2016, may have killed its intended targets, but it had collateral damage in the form of killed civilians. One year later, on the anniversary of these deaths, we find Imir standing on the doorstep of Neil. Neil has just lost his father and leaves his house to collect his last belongings from the retirement home. Imir waits for him to leave, trails his wife (Ellen) and discovers she is having an affair, which he photographs. Imir is also trailed and escapes being captured, leading us to wonder why he is being followed. Neil returns and finds Imir standing outside his house, pretending to be interested in the boat Neil's father owned, which is now marked 'for sale'. They enter the home together, ostensibly to discuss the price of the boat and its purchase. We see the CIA track down Imir as the same source of a leak that privately exposed Neil and the top-secret CIA contractor work that he and others do as drone operators. This immediately creates an 'us/them' relational polarisation and escalates the plot tensions. Over a strained dinner table conversation about how Neil is struggling to pen a eulogy for his father, it is revealed that it is a year since Imir lost his wife and daughter in a drone strike. It is implied that the drone operator is Neil. Neil receives a call from the office, alerting him to the leak and, when he queries what he was doing a year ago he starts suspecting who Imir really is and why he may be in his home with his family. He confronts Imir in private and tries to call the police, but Imir claims to have a bomb in a briefcase he puts on the kitchen table with Neil's wife and son present and reveals what looks like a detonator. He threatens to detonate it if Neil does not tell his family what he does. As Neil reveals his profession, Imir reveals Ellen's affair. At this point, the CIA, who have been tracking Imir, surround the house and prepare to assassinate him. They are unable to do so when Imir and Neil get into a brawl and Imir is stabbed several times by Neil. As Imir lies dying, it emerges that there never was a bomb and Neil realises what he has done. The film closes with Neil emerging as a whistle-blower who reveals his top-secret work as a CIA contract drone operator. Some hail him as a hero and other castigate him as a traitor.

Up until the emergence of *Drone*, the sense that there are no consequences for targeted killing and the deaths of civilians and the link between drone operators and their victims became powerfully entrenched. This was mostly a given, as the cinematographic optic mostly told the story from the perspective of the drone pilot. *Drone* powerfully challenges this uncritical treatment in a strikingly confronting way. The plot feature of covert war and the role of the CIA

and private contractors in outsourced targeted killing is an important narrative to inform the broader audience through this semiotic form, and launches an important narrative strand into the discursive and societal practice space of drone discourses. Given how little people know about how drone wars operate in practice, this is an important contribution to broadening the discourse beyond political speeches that simply justify such actions. It effectively transmits the controversy into popular culture and beyond the confines of political debates.

The film also shows the secretive nature of the work of these civilian contractors, who are granted war authority from Congress for the work that they do – another important strand of drone discourses. *Drone* seeks to bring the ‘us/them’ relational polarisation into a very intimate camera view, which brings Washington and Pakistan together in the same dining room – albeit at opposite sides of the dinner table and drone strike dynamics.

As we can see, various subjectivities that speak directly to the justificatory norm contestation that is at issue in the use-of-force provisions and IHRL and IHL that are placed in danger by drone strikes are present in the narrative plots we analyse in greater depth below. Conversely, we see aspects of pushback against this preponderance of narrative subjectivity in the drone war film genre by a host of documentaries that seek to allow the voices of humans affected by drone strikes to speak to the countervailing human rights narrative that is often absent or obscured in the fictional films dealt with above. We now turn to the documentary, and art film, genre to see how they seek to ‘speak truth to power’.

5.3 ‘Speaking Truth to Power’: Drone Documentaries and the Human Perspective of the Impact of Drones

5.3.1 Films 5, 6 and 7: Documentaries: *National Bird*, *Drone (Point. Click. Kill)*, and *Unmanned: America’s Drone Wars*

[National Bird (2016) Directed by Sonia Kennebeck. [DVD] U.S.A. Ten Forward Films.
Drone (Point. Click. Kill) (2014). Directed by Tonje Hessen Schei. [DVD] Norway. Flinmer Film.
Unmanned: America’s Drone Wars (2017) Directed by Robert Greenwald. [DVD]. U.S.A. Brave New Films].

Whilst the treatment of drones in fictional form in film has highlighted factors including law and military ethics, the role of drone pilots and their perspectives, the perspectives of victims, the role of the CIA and a host of issues about drone discourses, as highlighted in the analysis in the previous sections, we have to turn to the genre of documentaries to see what has been called ‘critical discourse analysis’ as film. It therefore is important to see what polemical and other normative positions we can see in documentary films on drones. As has been pointed

out previously, documentaries are about truth-telling – sometimes polemically so. In this regard, we look at the types of ‘truth-telling’ we can identify in the documentaries selected in this batch.

National Bird – ‘bird’ being the name US Air Force (USAF) staff use to refer to drones – carries within its title the epitome of how the U.S. has started relying on combat drones to the point where drones can ironically be viewed as a ‘national bird’ of the nation. This documentary is an important contribution to a CDA of drones, as it contains first-hand accounts of three USAF military veterans (Lisa, Daniel and Heather) who were involved in different roles in the targeted killing campaign who decided to speak openly about it in this film. As these are first-hand accounts of drone narratives from those involved in their use, it adds an important layer to this analysis. What makes these contributions of narrative voices accounting first-hand experience remarkable is that they can be prosecuted for the contribution that these accounts make to the burgeoning drone discourses we now find populating popular culture communication through films about drones. The documentary engages the veterans who played a role in intelligence gathering and analysis and the tracking of targets to be killed. In contrast stand the depictions and voices of real-life survivors who experienced living under drones in various countries, specifically Afghanistan, that jar and contrast with President Obama’s speeches on signature strikes. The contrasts become palpable through the eyes of a veteran (Lisa) who travels back to Afghanistan to see the consequences of drone strikes – even more so as she does not reveal everything to the Afghanis or her own role in it fully in the film.

Intelligence analyst Heather’s candour about her battle with PTSD brings home the human cost of dehumanisation brought about by the drone wars. Signals intelligence analyst Daniel’s story – and the consequences of his prosecution for whistleblowing on the drone programme – tells a different story about the real costs. At the end of the film it chillingly states that Daniel’s whereabouts are unknown. These first-hand accounts are harrowing and paint a picture of an alarming level of secrecy and near persecution, and actual prosecution, for seeking to escape the drone world and the human effects and consequences of involvement in this new way of war. This is warfare that involves assassination using technology and dehumanisation for those engaging in it, as we have seen represented in the fictional depictions cited above. Kennebeck’s brave documentary is executed in a way that starkly contrasts these personalised stories with street scenes of ordinary daily suburban life in the United States. Interviews with Afghans disfigured and dealing with the real-life consequences of the drone strikes Lisa was involved in are paired with oddly ominous drone imagery. It is a powerful and directly and visually polemical contribution to the growing public awareness and broader public discourse about drones. It is these silent images of drones and aerial cameras taking visual

vistas of Afghanistan and American suburbia that powerfully bring the message home that drones used abroad can as easily be used at home. The interviews with Afghan survivors and victims may be the first of their kind in which victims of drone strikes speak on camera. These physical losses contrast starkly with the 'loss of soul' narratives so poignantly evident in the stories of these United States Air Force whistle-blowers who are taking the risk of incurring their state's wrath for candidly speaking on camera about their first-hand experiences.

In a remarkably similar vein of candour, *Drone (Point. Click. Kill)* makes a startling claim on its jacket cover: "to be the truth behind the secret CIA Drone War". It does indeed seek to make more of what is covertly visible by taking us behind the scenes to the recruitment of young pilots at gaming conventions – invoking Stahl's (2018) *Militainment Inc.* discussed above – to tracking stories of those standing up against civil liberty violations and soldiers with joysticks killing faceless targets half a world away with significant collateral civilian harm. This documentary film is far from being a definitive history of the covert drone war, but it does seek to assist the analysis of drone narratives shaped by covert war, their production and the changing face of war by shining a documentary spotlight on these trends. It is a documentary that is perhaps less polemical about a means of warfare arguably still in its infancy, and looks at multiple sides of the drone debate and discourse. The film does pose the question of how America would feel if other states or indeed non-state actors had the prospect of remote-controlled death constantly hovering overhead, with drones glinting in American skies. One of the important voices in the documentary is that of former drone pilot Brandon Bryant, who gives a first-hand account of his experiences in the covert drone war, as well as Pakistani human rights lawyer Shahzad Akbar and U.S. human rights lawyer Jesselyn Radack, who offer some legal perspectives on the civilian impact of strikes in Pakistan and the prosecution of those who reveal any details of covert wars respectively.

The film raises a host of critical questions about global drone proliferation and the response of the global community and the global arms industry that is reliant on more conventional arms for profitability, but does not seek to provide any easy answers to these questions raised by drone discourses. The film meticulously sets out different parts of the moral, legal and ethical dilemmas posed by drones and, by doing so, provides a vivid cinematographically astute and acute counter to many of the arguments advanced for their use by political elites in political speeches – some of these covered in Chapter 4 of this study. The film is an important high-water mark pointing out that new ways of warring, such as drones, should not simply be accepted without deep interrogation at the level of broader societal consciousness of drone narratives by placing them squarely in popular culture by way of the medium of 'complex', challenging and thought-provoking documentary film.

Lastly, we turn to *Unmanned: America's Drone Wars*, which takes us literally right into the heart of Pakistan and its territorially and legally unique Federally Administered Tribal Areas (FATA), which have seen the bulk of United States drone strikes. It includes interviews with a host of victims, witnesses, psychiatrists and Pakistani leaders. Director Robert Greenwald shows us footage of burial sites in the FATA and local meetings about drone strikes (Jirgas – tribal council meetings) in the FATA areas of Pakistan. This is a searing revelation of drone warfare, as it is explicit about the violations of international law inherent in the strikes and loss of life associated with them. It traces 'blowback' from strikes for the United States and the implications for those who 'live under drones'. Interestingly, from a current politics perspective, this documentary has historical footage of the current Pakistani Prime Minister, then still in his role as a future prospective national political leader, in the FATA seeking first-hand accounts from survivors of drone strikes and campaigning with Reprieve – a United Kingdom-based non-governmental organisation focusing on drone strike accountability. The film contains the first-ever real footage of the FATA and claims that covert military action is creating new generations of enemies of the American people, as targeted killing leaves a trail of victims in its wake due to its imprecise nature, in contrast with speech claims of its supreme precision.

The firm that produced *Unmanned: America's Drone Wars*, Brave New Films, had a unique distribution model – it was also released online, adding many viewers it might otherwise not have had and spreading its narrative strands on drone discourses further in popular culture. In another first, Brave New Films and U.K.-based civil society actor Reprieve also brought actual survivors of drone strikes to Capitol Hill for a Congressional hearing. The list of interviewees in the film, for the purposes of this study and its subsequent chapters, included UN Special Rapporteur on Extrajudicial Executions Philip Alston and Medea Benjamin, co-founder of Code Pink – specific subjects studied in subsequent chapters.

5.3.2 Film 8: 5000 Feet is the Best

[Omer Fast (2011) Venice Biennale – Short-film Installation Art – 5,000 Feet is the Best].

Any reflection on the drone pilot's anguish would be incomplete without commentary on Omer Fast's short film, *5000 Feet is the Best*, which was at the 2011 Venice Biennale and also was an important part of the Imperial War College's exhibition of contemporary war in London. Omer's work has three core characteristics: firstly, it is the kind of film that expressly defines a new relationship between reality and fiction. Secondly, his interest is in expressly exploring narratives and how stories change from different perspectives and vantage points. He manipulates time using repetition, looping and re-enactment to form new and complex structures. Thirdly, he uses and leverages human emotion as a stand-in for the larger socio-

political reality of contemporary war. This was the theme of the exhibit it formed part of at the Imperial War College.

The film's protagonist is a Predator drone pilot, interviewed in a hotel in Las Vegas, where he now works in a security position. He operated drones for six years, engaging with militants and civilians in Afghanistan from his drone cubicle in Nevada, like Egan in *Good Kill*. The title is derived from the optimum level a Predator drone flies at to maximise the detail it can see, which is described chillingly. This short-film installation blends fact and fiction in a veteran's emotional retelling of his own story and, by doing so, probes the equally shifting lines between reality and representation and truth and memory.

We see a slick short film that pulls together strands of government concealment and covert war, Hollywoodised narrative, video-game culture and the privatisation of war and its costs, all creatively depicted in a fictionalised drone strike. Whilst this provides a haunting result, it does not seek to moralise it.

5.4 Analysis: Popular Culture, Drones and the Battlefield of Hearts and Minds

Good Kill (2014), analysed below, is the first real film in the drone war genre and, unlike the absence of bombing in World War II-era films, the killing of civilians is depicted vividly. It makes drone killing vivid and visible by taking viewers into the heart of the drone pilot cubicle in Las Vegas. The depiction of violence through the drone viewer is real and immediate, as are its consequences for drone strike victims and the drone pilot alike. We analyse this in more detail below. In terms of the justificatory norm contestations inherent in drone strikes, particularly their impact on IHRL and IHL, this first proper drone film is crucially important, as it follows the rhetorical argumentation on drones and some of the themes that emerged from the speeches of key policymakers of the Obama administration analysed in the previous chapter, as well as the themes of President Obama's drone policy speech at the National Defense University in 2013. We also see how the pilot, Major Thomas Egan, yearns for the F-16 and emotionally rejects drone warfare, as it lacks valour. This is a crucial representation of what is at stake in the justificatory norm contestation about drones.

According to Goldstein (2017:30):

Collateral damage is imagined as the consequence not of war, but of drone technology.

This is a theme explored by Goldstein (2015) in *Drones, Honor and War*, which shows how *Good Kill* (2014) is the key film that depicts much of the norm contestation we see on the use of force and the human rights impact of drones. It is an interesting film that depicts how our adoration of technology is stripping us of our own humanity in different ways with the rise of

the surveillance state. The emotions the film evokes are ones of alienation and anger. It is a dramatic departure from previous war films, in which United States soldiers are hardly ever seen to be killing civilians. It vividly captures the asymmetric relationship that exists between targeter and targetee – the very crux of drone wars and civilian life risks. Major Thomas Egan becomes the narrative pivot point of the justificatory norm contestation of the use of force and drone wars and their effect on human rights, as he is increasingly tormented by his role in killing both known targets and non-combatants, including children. We see his own life disintegrate as the moral fibre of drone wars shows itself vividly on his life path. As his own values erode, we feel the values of the global community of nations erode.

This is an issue also emphasised by Woods (2015), who points out that it is the very ability to target ‘enemies’ from the safety of home soil far removed from a red-hot battlefield that has a significant effect on how the United States conducts not only its foreign policy, but also how it sees the world. This is what we see evolving on screen and, due to the various subjectivities alluded to earlier, and at the level of popular culture regarding drones, drone strikes and the contestation of norms of human rights they bring into question, they play out in fictional and documentary form. This is not unimportant for the sheer reality that the public at large is even further removed from the drone ‘battlefield’ than the drone pilot. This has significant implications for the ethics of drone strikes. Whilst drone strikes are rhetorically defended as adhering to the principles of just war, Rae (2014) argues that the distance factor of drone strikes and the relatively low threshold for in unmanned robotic weapons into war creates greater willingness to use force without involving legislatures or the public at large in foreign policy decisions that commit the military. Therefore, we have to understand how discourse feeds the battle for ‘hearts and minds’ at the level of popular culture through the cinematographic depiction of the norm contestations at issue in drone strikes. The executive inheritance of what has been called the United States ‘killing machine’ located at executive level, according to Calhoun (2017), has been handed from President Bush to President Obama to President Trump. It is a precedent that can travel across nations, hence the importance of understanding how it is depicted, and accepted or contested, at the level of popular culture.

According to Calhoun (2017:138):

Deployed by the United States government to dispatch avowed enemies throughout the Middle East, these war machines are also spreading swiftly to many other places around the globe.

What we are sensitive to in looking at the representation of drone strikes on screen is the presence of what Danchev (2016) has called the ‘empathy gap’, which speaks to the politics

and ethics of the drone operations on a drone strike-by-strike basis and of drone warfare more generally speaking. Much of the depiction of drones, in cinema and art, occurs from the perspective of the drone operator (as we have seen above). Given that democracy requires visibility, it is clear that the dominance of the perspective and subjectivity of the drone pilot is an element that we must keep in view, as it is not free from bias and structures much of the cinematographic representation of drones in popular culture. We will see how the ‘empathy gap’ is present in this case as it relates to the deaths of civilians in drone strikes in fictional films, but also how empathy returns to take centre stage to rebuff its absence in fiction in the form of the very real experiences of victims of drone strikes present in documentary film.

Pugliese (2013) goes further and adds a Global North and Global South dynamic to this. He argues that the violence that came with the ‘war on terror’ frame and its forms of ‘othering’ has trapped citizens in the Global South in institutionalised and discursive structures that position them as non-human animals capable of being ‘othered’ for the purposes of torture and targeted killing and disappearance. According to Pugliese (2013), the kind of violence that drone strikes enable is, from a poststructuralist perspective, present in networks of state violence embedded in key institutions.

This chapter seeks to rise to the challenge set by Maurer (2017) to expose and shed light on some of the visual framing of drones. She draws our focus to the drone’s scopic regime to alert us to its visual power, as it allows the presence of hypervisibility, visual immersion and invisibility, as we shall see in the depictions on screen. According to Maurer (2017:141):

The scopic regime refers to the drone’s visual configuration, i.e. its ocular operations of capture, its optical perspective on the target, the visual sensing of the drone pilot, as well as the target’s range of vision.

These optics of the scopic regime of the drone are present in all the fictional ‘drone war’ genre films, as well as in the documentaries analysed below. What you see, however, is very much contingent on the subjectivities that were alluded to earlier in this chapter, and on whether you are a commander issuing a kill order, a drone pilot executing this order, a lawyer weighing the legal position on a strike-by-strike basis, or a civilian seeing the hellfire missile carrying weapons from below or hearing it drone overheard, inducing fear and anxiety. Hill (2019:20) argues that drones not only deliver actual payload in the form of hellfire missiles, but also figurative payload in the form of political, religious, capitalistic, visual and visceral global society. It is this additional ‘payload’ and how it is depicted on screen that we must be aware of when we seek to look at how justificatory norm contestation of drone strikes is represented in the drone war film genre. These are the new ‘battlespaces’ for hearts and minds at the level of popular culture, when a particular weapon is placing profound pressure on internalised and

institutionalised human rights norms and use-of-force norms. Some of these crucial legal contestations are vividly represented in *Zero Dark Thirty* (2012), *Eye in the Sky* (2015) and *Good Kill* (2014), which all probe the context of international law as it relates to drone strikes, and consider questions of gender, torture, genre and targeted killing. As we have seen in the analysis of the rhetorical justifications in the previous chapter, Krishnan (2018:38) highlights the moral ambiguity that arises when the 'war on terror' frame casts its net globally with forever wars as the operational level, and where law enforcement seeks to anticipate threats and respond with retaliatory attacks. We see this grey zone represented on a superficial level in many films. We will see that the very genre of film does not allow great scope to unpack the profound legal complexities inherent in the justificatory norm contestation of drone strikes at the level of popular culture in the public mind of the mass of public opinion. The legal technicalities are profound, even for experts of public law and international relations scholars, and can, at best, be represented superficially where the linguistics are overpowered by the visual framing of the drone scopic.

Freda (2016) looks at *The Hurt Locker* (2008) and *American Sniper* (2014) and asks probing questions about the existence of the interplay between subjectivity and the cinematic screen in the 'post-9/11 Iraq War Film'. Her work serves as a crucial reminder to be mindful of the fact that film can place the spectator in specific positions of subjectivity, and that there are exceptionally long histories of the depiction of violence in war films. In this regard, we will see what position the spectator at the level of popular culture is placed in by the drone pilot subjective perspective being so dominant in the drone film genre and how it is intimately linked to a subjectivity that by its very nature is deeply co-involved with the justificatory norm contestation at the heart of this thesis. As such, it also involves us all personally in the justificatory norm contestations of our modern ways of asymmetric war, as this is what we all live through at the level of popular culture when we find ourselves inside the drone cubicle on our screens.

Calhoun (2018:357) argues that, whilst politicians might champion and advocate for the drone's 'light footprint' way of war, the bureaucratic institutional mechanisms that enable targeted killing rest on essentially totalitarian, not democratic, principles. Whilst this is a strong assertion, it is one that could be sustained. In this regard, Calhoun (2018) foreshadows some of the work of Koh (2019), calling for 'national security framework laws' in the United States to bring Congress more robustly back into the conduct of American foreign policy and into decisions that commit the military to action of any kind. Brady (2015) urges us to look out for what he calls the *drone effect* at the level of popular culture. By looking at a play (*Grounded* (2015)) and two films (*Good Kill* (2014) and *5000 Feet is the Best* (2011)) that largely focus on the drone pilot's perspectives, she argues that the so-called *drone effect* is the manner in

which a nation state is forever altered by having and using drones, especially weaponised ones. She seeks to highlight the performance effect of drones and the impact this has on all of us. She argues that films like the ones included in the analysis below can perpetuate perceptions about drones and their relationship to power. What is important to know about drone strikes that are still largely covert is through popular fiction mostly (aside from the formal speeches in the previous chapter) and it therefore is imperative to explore the effects that cinema and cinematographic representations of drones have. According to Brady (2015:42):

Good Kill attempts to show the tension between real and virtual, good, and bad, peaceful, and violent, ordinary, and extraordinary.

In terms of *Good Kill* (2014) specifically, Brady points out that its production did not enjoy the support of the United States, and it is the defining movie of the drone war film genre. Despite this, its depiction of the drone pilot universe and the realism of drones lacks depth and complexity. It certainly does not fully give rise to an airing of the deeper norm contestations that underlie the drone effect. According to Brady (2015:44), *Good Kill* (2014) is:

... polemical, didactic, and heavy handed; It's also weak – it has more in common with *Top Gun* than it should, it has too many two-dimensional characters, and it conflates drones with strikes, which leads not to the public debate the filmmakers wanted, but to more assumptions that all drones do is drop missiles.

From a drone pilot's perspective, *5000 Feet is the Best* (2011) in fact tries to air the norm contestations we trace in this study between pro-drone use norm entrepreneurs and the human rights community, which are far more circumspect about their consequences. Brady (2015) points out how the drone has altered the nature of war due to distancing. As the United Nations Special rapporteur on Extrajudicial Execution (Philip Allston) has argued, as we shall see in the next chapter, the risk of a 'PlayStation' mentality to such killing is very real indeed. This is addressed directly in *5000 Feet is the Best* (2011), where a drone pilot being interviewed in a hotel in Las Vegas tells us how he returned home from his drone work to in fact play video games for hours to relax – attempting to draw a line of difference between these two activities that are quite similar.

Brady (2015:47) argues that it is impossible to grapple with the drone in fact-based language, as a drone is not 'real' but is essentially a website, as drone pilots are looking at what the drone's camera shows them via the web. It therefore is a data 'war on terror', with all the same unstable terms like 'battlefield', 'combatant', and 'hostilities', that equally have no stable meaning and are themselves the very signifiers of deeper norm contestations on the "... 'secret interpretations of 'imminent threats'".

The drone is therefore somewhat of a new moment in visual culture that signifies far deeper contestations of the use-of-force clashes of the vision and norms of human rights. Some therefore argue that the drone has made politics visually and literally (rhetorically speaking essentially) politics into war by other means. This is vividly real at the apex of what has become known in military parlance as the ‘kill chain’, where the executive power of the United States, vested in its Presidency as an institution, oversees the lethal action under so-called ‘kill lists’. This has been described by the United Nations Special Rapporteur as an accountability void, as we shall see. Brady (2015:51) alludes to how documentaries such as *Drone Wars* (2013), Jeremy Scahill’s *Dirty Wars* (2013) and Tonje Hessen Schei’s *Drone* (2014) are, , on the other hand, all to be regarded as politically charged documentaries (see analysis below). This is so as all these documentaries have placed the norm contestations present in drone strikes in stark relief by emphasising political and legal issues, such as crucial questions of civilian deaths, what ‘acceptable’ collateral damage would look like and the targeting of American citizens for lethal operations, without affording them constitutionally mandated procedural protections, let alone their rights enshrined in IHRL and IHL under law enforcement paradigms. As we see in this section, an argument can be made that documentaries have their own ‘truth’ in seeking to ‘speak truth to power’, with a political agenda of their own. An argument can also be made that fictional films of the drone war genre are all entangled in various subjective narratives, depending on their role in the deeper normative clashes that underlie the drone strikes that are represented on screen. In this regard, it is interesting to see an art film such as *5000 Feet is the Best* (2011) in the mix of this analysis, as it collapses the fictional/documentary line with a contrasted ‘real’ interview with a fictional and non-linear story of an interview with a drone pilot that also mixed up the time-lines of events and the sense of time they have in relation to a drone strike. This was ground-breaking.

Ohl (2015:12) points out that there was a boring visual rhetoric of United States drone imagery due to the covert nature of drone strikes between 2008 and 2011, with drone photographs officially released showing drones without missiles largely stationary on airfields or in flight over unidentified territory. This changed when a visually altered photograph, constructed by Michael Hahn’s bricolage of Google and Wikipedia drone images, produced an image of a drone strike that implied death by showing the drone firing its missiles. This photoshopped image is, in a sense, the visual rhetorical equivalent of the Obama administration lifting the veil of covert drone actions and showing us the slip of their policies. This image made the distressing norm contestation more visually and viscerally real, and was the visual rhetorical component that is at stake in justificatory norm contestation. As this chapter shows, we move rapidly from Hahn’s photoshopped image to drones over clearly identified countries using their weapons and surveillance powers extensively and visibly in the drone war film genre that is

the focus of this chapter. This was a significant step in making the formerly largely verbal rhetoric visual. The year 2013 is therefore seminal not only due to President Obama's National Defense University speech, but also for the visual rhetorical presence on screen at the level of popular culture. We therefore see the verbal rhetoric matched by the visual rhetoric and a war to capture hearts and minds as part of the justificatory norm contestations of the use of force that drone strikes sought to cement. We therefore can clearly identify a visual rhetorical 'war' for hearts and minds to condone and legitimate drone strikes at the level of popular culture, as much as we saw persuasive arguments being used at the level of policy elites in the previous chapter.

What we also see represented on screen in many of the films – both fiction and documentary – is the lifeblood of lawfare, which is an indicator of the legal nature of the norm contestations and justificatory norm contestations related to Article 51 of the United Nations Charter, IHRL and IHL. These lie at the very root of drone strikes and lethal targeting practices. In a sense, we see the visual rhetoric mapping perfectly onto the rhetorical justificatory norm contestations, as well as the pushback to such assertions. What we see is the United States' policy entrepreneurship on contesting norms using rhetoric (Chapter 4), with a battle for hearts and minds to legitimate drone use at the level of popular culture (Chapter 5). Then comes a strong human rights-based pushback from the broader international community, and notably the United Nations itself, against such norm agitation and contestation and the very real risk of the regression of internalised and institutionalised norms that have guarded peace and stability for centuries (as we see in chapters 5 and 6).

So, for example, we see the bulk of the fictional films analysed projecting and showing subjectivities that speak to a defence of the use of force in drone strikes and the legal gymnastics such justificatory norm contestation has required to create an impression that such strikes are conducted in accordance with international law. Unsurprisingly, there is often active security sector collaboration in the production of these films, as was the case with *The Hurt Locker* (2008) and *Zero Dark Thirty* (2012). Conversely, we see the documentary films included in this chapter speak to the real-life impact on human rights of living under drones, and of some of the actions taken by transnational civil society organisations and activists to lobby against drone strikes and, at the very least, to air their concerns visually and visibly about the effect that 'asymmetric wars' with new weapon systems do, can and will have on deeply internalised and institutionalised global 'humanity law'.

It is important to engage briefly on dwelling on the dominance of the drone pilot perspective in fictional films. The drone pilot perspective itself is one of deep ambiguity that speaks to contested norms and international law questions and issues, regardless of how it is

represented. Crosston (2014:2) points out that the answer to the question of whether a drone pilot is or is not legally a combatant is yes/no. We see this depicted in *Good Kill* (2014), where the pilot (Egan) is a combatant when he is in his drone cubicle at the base in Nevada and how he ceases to be one when he is off-duty and off-base. This happens every day and is not based on the quirks of international law and the Geneva Conventions as much as it reflects the reality that he/she represents a state (the United States) that enjoys exclusive, advanced military drone technology and uses it accordingly.

Indeed, the films analysed here form part of what Kaplan (2017) has referred to as the ‘drone-o-rama’: her shorthand for the complete immersion in the visual and verbal rhetorical shifts of sights and sounds generated by the so-called military-industrial-media-entertainment network. She argues that much of the visual rhetoric that we observe (including television series such as *Homeland* and *24* and films such as *Eye in the Sky* (2015)) use a narrative logic that we could argue serves merely to pave the way for the cause of justificatory norm contestation of drone strikes, as it legitimises them and thereby reinforces militaristic drone use as opposed to other, less lethal uses.

The fact is that plot developments in these films allow us a window of opportunity to question the use of drones, but this cannot obscure the fact that their broader effect at the level of popular culture is one of visual rhetoric that reinforces the very essence of legitimization that lies at the core of norm contestation. In this regard, the role of first-hand accounts of what is at stake in the normative contestations that drones represent is crucially important. For example, the decisions by drone pilots like Brandon Bryant and drone sensor operators and others like Michael Haas to take great risks to speak publicly and to appear in documentary films such as Hessen Schei’s *Drone* (2014) is not only noteworthy, but significant in peeling back layers of the essence of the norms of human life that are at stake in drone strikes. These decisions allow very clear and specific attention to be focused on the human and human rights impact and implication of drones, not only for the actual victims of drone strikes, but also the human rights abuses and the human rights of those who operate drones and their apparatus and this technology. It is also well-established and internalised and institutionalised rights that are at stake, just as the norms that have secured peace and stability for decades are placed at risk through the very actions using new weapons technology. ‘Humanity law’ is all-encompassing and attached to those who operate this technology as well – especially when their moral convictions lead them away from working in this area of operational tactics. There is no debate that drone pilots, sensor operators and intelligence analysts also suffer greatly from physical distress, stress and cognitive dissonance and PTSD – all of which negate their human rights, as we see vividly depicted in the disintegrating lives of the drone pilots and others interviewed in documentary film and represented in fictional form. We can also argue

that a cacophony of multimedia noise or legitimating fictional films have the potential to distract the United States population from the accountability void of which the United Nations Special Rapporteurs speak as far as drone strikes are concerned. It allows our attention to be deflected whilst civilian death tolls mount, often in ways that fail to satisfy the transparency reporting requirements of public international law for such deaths. As Parks and Kaplan's (2017:19) work shows, life is altering dramatically in an age of drone warfare, and this is true for human bodies affected by this change, and different territories that have their sovereignty negated across different time zones on earth – often in real time. We are living through an era in which the United States' global militarisation (both air and ground conceptions) is rewriting global affairs.

Shaw (2013) crisply juxtaposes what is at issue in the justificatory norm contestation on drone strikes we see depicted on screen. He points out that specifically the Central Intelligence Agency's (CIA) drone programme drives a dronified United States. The national security strategy that legitimises what he calls the *Predator Empire* through the way the White House presents drone warfare as a bureaucratic conflict is part of this big change. This bureaucratised conflict finds its expression in a 'disposition matrix' that informs lethal targeting choices. We see this well represented in how *Eye in the Sky* (2015) rapidly moves from a plotline outlining a capture mission to a kill mission based on the behaviour of drone operators who have targets under their surveillance in Kenya who are observed through the drone optic. This is juxtaposed with a challenge to the official narrative emanating from the White House's rhetoric from those directly affected by drone activity in the Federally Administered Tribal Areas (FATA) of Pakistan. We see this depicted in various documentaries, if not all of the documentaries analysed here, that trace the progress of an anti-drone march in Waziristan in Pakistan led by Imran Khan, and very vivid victim accounts or accounts of survivors of strikes.

According to Shaw (2013:5):

The *Predator Empire* is underwritten by a regime of biopolitical power that according to Foucault has 'life' as its target.

The discursive shifts in the 2010 National Security Strategy, the 2011 National Strategy for Counterterrorism, and the 2012 Defense Short Guidance created discursive practices (we see represented in fictional films) that provide the current geopolitical conditions for an 'everywhere war' in which drones and unmanned systems are pivotal tools. In the sheer geographical spread we see represented in both fiction and documentary film, the 'everywhere war' is vividly present. What we see represented on screen is the difference between visual rhetoric that stresses the surgical nature of drone strikes and visual rhetoric that reveals this to be a fallacy by taking stock of the very human costs of these operations.

Shaw (2013:12) shows how Foucault's biopolitics of the population shifts to a biopolitics of the molecular, the 'bios' and our very DNA, which in a global surveillance network (used for lethal missions) renders us as 'recombinant biopolitics'. In such a world, dangerousness lies in our very behavioural patterns. This is a key approach that informs drone strikes and it is vividly represented on screen in practically all the films (fiction, documentary and art) represented and included in this chapter. In keeping with the pre-emption pressures on Article 51 of the United Nations Charter inherent in drone strikes, these pre-emptions target potential risks. According to Shaw (2013:13):

Consequently, dangerous signatures or patterns of life are assessed on their very potential to become dangerous.

These are some of the normative questions not only present in how the justificatory norm contestation of drone norms is depicted on screen, but also in the responses of the United Nations, and that of the United Nations Special Rapporteurs (specifically Christof Heyns, as we see in the following chapter) to contexts where IHRL and IHL come under severe pressure. Shaw says, this is (2013:13):

... a pre-emptive, future-oriented biopolitics that exists in an exceptional space outside of centuries of international law.

Arguably, the *Predator Empire* by Shaw (2013) is the ultimate expression of the biopower Foucault details and describes in *Security, Territory and Population* (1978). Shaw (2013:15) argues that the drone is a vessel that alters the biopower of the United States by bridging the distance between far-away areas that are concerning or worrisome or full of dangerousness into the direct gaze of drone pilots, targeters and analysts. This transformation brings the FATA of Pakistan right to the drone cubicle of Creech Air Force Base in Nevada, where the dangerousness can be 'controlled'.

It is crucial, given what is at stake in the justificatory norm contestation signified by drone strikes, that the voices of civilians who are affected must be heard. Living under drones as they do, they are at the coalface of the entire edifice of 'humanity law' and IHL. Their stories have a crucial role in rebuffing any idea that drone strikes are somehow 'surgical' or that any rhetorical flourish seeking to convince us that they are can be believed. As Shaw (2013:19) argues, we need to find a way to reposition notions of human security away from the logic of death as a touchstone of success in this regard. We have seen that the bulk of the fictional film narratives have a trace of the 'death-as-success' trope, even as they raise more serious questions. The documentaries, on the other hand, seek to resurface the human voice that can speak truth to power about the actual human cost and civilian impact of drone strikes.

Bender (2017:105) deals with the emergence of the new type of combat film that depicts the rise of mediated UAV combat or the so-called drone war film genre. In reviewing *Good Kill* (2014), *Eye in the Sky* (2015) and *5000 Feet is the Best* (2011), he shows how this genre is skewed towards depicting pilot trauma as the key narrative. These films use dramatic fictional scenarios to engage with the ever-present ethical and legal justificatory norm contestation of drone warfare. The issue of pilot trauma featured, according to Maurer and Graae (2017), in a letter addressed to United States President Barack Obama on 18 November 2015 in which they vividly recorded their experiences with PTSD. Stahl (2013) draws our attention to how the view through the drone camera came to be the new kind of war image at the level of popular culture, and how this cultural optic of the unmanned war has shaped our perspectives, as can be seen in the various films where what the drone sees comes to define much of our subjectivities. The drone is therefore far more than a weapon; it actively becomes part of subjectivities and the making of meaning as an emerging medium for representing conflict. Stahl (2013:659) draws attention to how what he calls 'drone vision' has two key components. The first is the promotion of inactivity of those in drone wars and those who consume drone visions. The second is the militarisation of the domestic space, as we all engage with the images from drones and drone optics in the intimate confines of our homes.

Robson (2020) argues that a combination of Derridean deconstruction and Levinasian ethics can open new and useful ways of interacting with justificatory norm contestations and the deeply profound ethical dilemmas they represent. Robson uses *Eye in the Sky's* (2015) narrative take on the controversies present in targeted killing by drone strike as a counterterrorism tool to launch an appeal for a revived ethical approach that treats the polarised/juxtaposed 'other' and radical difference on such an ethical basis, and not merely as a tool for dehumanisation. These ethical appeals also hover in the background of Piotrowska's (2017) analysis of Omer Fast's art film, *5,000 Feet is the Best* (2011), as the very words of the title of the film reveal an oral ambivalence as they obscure the real purpose of the drone pilot's mission, which is to kill. The words are also deeply revealing of the drone's ability to seduce its operators, who become enamoured with the beauty of the technology at their command, without pausing to reflect cognitively and morally on the fact that it is this very beauty that marks the bridge to death.

In terms of the visible manifestations of the justificatory norm contestation we see on screen, and how this shapes popular culture and perceptions of drones, Pugliese (2011) draws our attention to how law is instrumental in lethal strikes, whilst simultaneously erasing the link between the executor and the executed. This is most vividly present in all of the plot developments of all the fictional films analysed in this chapter. He also draws our analytical gaze to how robotic war becomes bizarrely normalised as part of civic life, and how technology

and biological human subjects are represented on screen. The near merging of drone pilot and drone within the confines of the drone cubicle is coextensive in a morally disconcerting manner that brings normative questions about drone strikes and targeted killing into sharp focus.

Despite the considerable visual rhetorical effects of the drone war film genre, Rich (2018) argues that drone wars have severe public relations challenge which the new cinematic myth of drone warfare cannot address or refute adequately. The effort to build a myth of drone warfare in popular culture that can keep pace with or rival that of the cinematographic myths about special forces and special operations has not been a success. It is worth reminding ourselves, as Shapiro (2018) does, that Lacan's (1979) distinction between the eye and the gaze is very much present in the drone optic on the cinematographic screen in films and documentary films analysed in this chapter. The gaze at issue here is the drone optic, which performs like an ever-present phantom force and a clear reminder of the deep swirl of normative contestation that it represents. This normative contestation goes to the very core of the essence of the human right to life that is literally at stake on screen, as it brings the targeted killing operational tactics as a manifestation of the use of force globally to the fore. As Lamentowicz (2017) finds, legal criticism of drone strikes is on the rise, whilst the military practice of targeted killing continues. We have seen this articulated in the previous chapter's analysis of the use-of-force rhetoric to surface this tension to policy elites, and we can clearly see this tension in all of the films and plot lines that have been highlighted above to surface those tensions and make them visible at the level of popular culture. Rae (2015:477) captures this well and shows how this era contrasts with the previous nuclear era of great power conflict.

According to Rae (2015:477):

... remotely piloted aircraft appear to enable major powers to call forward a drone arsenal to confront potential rivals while bringing the battlespace down to individuals identified by only signature patterns of behaviour or location, with losses counted only in metal scrap.

There is no debate that drones, and their use, place internalised and institutionalised norms of fundamental human rights, state sovereignty and autonomy under pressure of norm regression through active contestation. In all the films analysed in this chapter, all these norms flow in the narrative plot lines of the fictional films and in the interviews reflective of 'truth to power' and interventions by victims of drone strikes in documentary films. In this regard, Bousquet (2018) argues in *The Eye of War* that we live in a 21st century where to see is to destroy, and where the drone optic used for targeted killing has erased the bounded spaces of armed conflict in 'everywhere wars'. His work shows how the growing technical nature of

military perceptions has placed human subjects squarely and forever under its gaze, thereby threatening the very bodily harm that international human rights protections seek to protect human bodies from. The intersection of spatial and cinematic images is present in two films in this analysis – one fictional and one documentary, namely Gavin Hood's *Eye in the Sky* (2015) and Hessen Schei's *Drone* (2014). As Fernandez-Pichel (2018) shows, the drone warfare film genre often dehumanises images, and specific film-making techniques used in these films that criss-cross cinematic and spatial imaginaries are important in aiding the ethical critiques on drone strikes in these films that speak directly to deeper justificatory norm contestations focused on human rights violations.

When we consider the justificatory norm contestation at issue in drone strikes, it is interesting to note how *Eye in the Sky* (2015) stands out as the film that grapples the most deeply and profoundly with these contestations and with the realities of contemporary asymmetric wars. As Lawson (2016) has argued with reference to the film, its plot perfectly focuses on complex political-military decision-making in such wars, and how drone strikes are the visible part of this far more buried and complex wrangling over long-standing norms that are profoundly pressurised by the advent of technology in war. The four locations depicted – Kenya (Nairobi), the United Kingdom (Northwood and the Cabinet Office in London) and the United States (Creech Air Force Base in Nevada) – show us how much is at stake in global 'asymmetric wars', the complexity of human relations and the judgements that are made and actions taken. These are vignettes of similar situations that play out daily, and that also place pressure on existing norms. The fact that the mission dramatically changes from a capture to a kill mission is the crux of the plotline and simultaneously the weathervane for these deeply buried moral clashes that now involve us all at the level of popular culture's engagement with these complexities. Foster (2017) expressly probes how post-9/11 American war films engage with discourses of legitimisation and analyses *Zero Dark Thirty* (2012), *Good Kill* (2014) and *Eye in the Sky* (2015). With respect to the drone films, she looks at how they affirm and/or confront the dominant legitimisation discourses that abound about drones. She shows how the films use approaches that either emphasise depersonalised drone warfare (*Eye in the Sky*) or make it nearly unbearably intimate by involving us deeply and emotionally in the life of the drone pilot (*Good Kill*). She argues that contemporary films made under the 'war on terror' frame and the drone optic have shaped our perceptions of the 'other' (or largely Muslim subject) that has been systematically and rhetorically 'othered'.

In contrast to the fictional films, the documentary films in this chapter all seek to 'speak truth to power' and to reveal key aspects of the norms that are at stake in drone wars through the voices of real people with real lived experiences that are relevant to these clashes that reach beyond lawfare into global peace and security. Hessen Schei's *Drone* (2014) reveals starkly

how the United States Air Force Unit in Nevada participated in the CIA assassination programme in Pakistan and how gamers are recruited to become part of these projects. It takes the 'truth' from at several former drone pilots that attest to these facts and that have been party to these missions. These were all former USAF members and not the customary contractors the CIA usually uses. This documentary therefore peels away the layers to clearly show the close Pentagon-CIA collaboration that lies at the heart of drone wars and speaks directly to the human rights and international law norms that are being pressurised by these practices. The documentary film that really sought to take normative contestations of drone use to the heart of popular culture in both the manner of its release and in its content was *Unmanned: America's Drone Wars* (2013). Released through online distribution, it stands in a long historical line of politically committed documentaries. It is the key documentary film that Howley (2019) argues opened a discursive gap for various players to alert us all and Americans at large to the legal, strategic, moral and ethical challenges of its targeted killing programme. It brought us close to the perspectives of human rights lawyers, specialists in international relations, witnesses of actual drone strikes and others who illuminated different aspects of the real-world impact of drones. Howley (2019) argues that *Unmanned: America's Drone Wars* (2013) was a powerful visual rhetorical achievement, as the film succeeded in subverting the dominant discourse that sought to justify drone strikes – as we saw in the previous chapter – that relied on arguments of precision, accuracy and efficacy, amongst others, to sell drone strikes rhetorically to political elites and the public at large. This follows previous work by Howley (2016), in which he probed the '*I have a Drone*' internet meme that was a provocative example of how digital culture responded to President Obama's drone advocacy and defence of his administration's targeted killing drone policies and practices, as we saw in the previous chapter.

Drone strikes specifically were never expressly or explicitly authorised by the United States Congress, but derived their authority from the broad war powers resolution (AUMF) passed by Congress in the wake on 9/11. They have also not been fully and properly adjudicated in any court, with many court cases dealing with complex procedural components of the programme but not the principle of the programme in its entirety.

It has been and remains a largely covert executive-sponsored undertaking under presidential war authority, but it has not stopped the ongoing fictionalisation of drones and the new genre of 'drone warfare films' that feed drone discourses through multimodal semiotic, discursive and societal practices, drawing on Fairclough.

As Maurer and Graae (2017:5) state:

In blockbuster political-thrillers and war films, drones are all over the place and often portrayed in rather critical light, for example in popular TV series (e.g. *Homeland* and *24*) as well as in high-profile Hollywood productions like *Eye in the Sky* and *Good Kill*....

This chapter has also illustrated, through the analysis of the semiotic mode of film captured in the analysis detailed above, that drones cannot, nor can discourses about them, be confined to one single discipline. According to Maurer and Graae (2017:5):

... drone warfare cannot be analysed and explained in a mono-disciplinary fashion, but rather that its complexity demands expertise from a wide range of scholars.

Arguments have been made that drones occupy an asymmetry in principle which render them to be classified as an unjust war. Maurer and Graae (2017) tell us that the ‘Gorgon stare’ and ‘Argus-IS’ video-capture technology mounted on drones have forever reshaped our world, how we look at it, and how it has given drone pilots Olympian god-like powers in terms of ‘imaginative geographies’ that allow the world to be visually carved up in ‘us/them’ representations. These mirror such representations in language and text but, viewed through the drone camera and on the drone screen, we are becoming so accustomed to seeing it also represented in broader popular culture. Maurer and Graae (2017:9) explore Carrie Mathison’s drone strikes in *Homeland* that are both emotionally present and geographically removed, which oddly invoke the characters’ own bipolar disorder: “... this split experience can be effectively communicated to the viewer and, furthermore, can also mark a paranoid connection between drone warfare and the war against terror in general.”

But as Maurer and Graae (2017) also show, drones are about far more than politicians and military planners, as these silvery objects represent a profound societal phenomenon of great complexity that calls on scholars to work together in multidisciplinary forms. They should also bring different fields of the humanities closer to us to aid our understanding of their transformative effects and the new norms they will breed in our societies at home and abroad.

It is still a democratic conversation – in legislatures preferably – in its infancy, whilst decisions are racing ahead at the executive level – often with little space for the voices of public representatives to express the hope or fear of constituents and citizens of any kind. As far as drones are concerned, there is a vivid democratic deficit in decision-making about their use and deployment, which greater popular culture discourses and discursive practices ought to ameliorate through multimodal visual turns of politics and interrogate quite closely, as it is a clear manifestation of combined public and private power.

By bringing together the political speeches in Chapter 4 and the ‘drone warfare film’ genre of Chapter 5, it is hoped that the multimodal critical discourse analysis component added by this chapter’s analysis can assist in showing how these defining questions in drone discourses must be tackled by political scientists, drawing on a host of social science fields to bolster their research and to crystallise the normative issues that are at stake. In this sense, this study represents but a small step in what should be far deeper and cross-boundary research. This chapter has analytically shown how the emergence of a new genre of ‘drone warfare films’ has played a crucial role in providing access to drone discourses and drone narratives, beyond the confines of political elites – making them more visible to a bigger audience as part of popular culture.

This chapter has shown how these fictional works (dramas and thrillers) and documentary films (polemical and less so) have played an important role in this diffusion. The covert nature of these drone wars and drone strikes, and selected political speeches that have been delivered by political elites at United States universities, have sought to lift the lid only somewhat on the secrecy of the programme, thereby only allowing minimal scope for more meaningful public discourse and accountability. The diffusion of drone awareness, drone narratives and drone discourses in popular culture has created greater scope for greater demands for public access to one of the defining discourses about power in the 21st century, one of the most ideological expressions of hegemonic power, and one of the most important changes, if not revolutions, in how the world will wage war in the 21st century and beyond. As such, we must interrogate these issues normatively and closely. For, as Campbell (2018) has reminded us, we are already catching glimpses of a singularity that will fuse capital, technology and war in frightening ways. These are the very issues at stake in the justificatory norm contestation and regression of key norms in the international system to which this thesis speaks.

In the following chapter, we deal expressly with the United Nations’ efforts to actively suppress any regression of internalised and institutionalised norms that mitigate against assassinations and the arbitrary deprivation of life. The complexities that arise in the context of the use of force, and changing conceptions of this through norm entrepreneurship, are addressed analytically.

This chapter probed how specific cinematographic representations of drones have vividly shown different subjectivities at issue, and how the documentary film genre specifically has opened up the issue of the impact of drone strikes on human life and the right to life more generally. We now turn to a consideration of how the United Nations as an institution has responded to the justificatory norm contestation implied by the use of force with drone strikes,

and the effect this has had on internalised and institutionalised norms of the international community. In order to do so, we turn to a consideration of different United Nations Special Rapporteur reports on drones and drone use for targeted killing, specifically those that fed the 'bad' drone narrative strand by seeking to counter the effect drones have on the right to life and the use of force prescripts of the international community.

We also look briefly at the rise of the 'good' drone narrative strand within the United Nations' Department of Peace-Keeping Operations (DPKO). This is regarded as controversial, as it ultimately may completely alter the nature of the practice of peacekeeping and make it more akin to war under more robust mandates. As it is a fairly new phenomenon that seeks to address the 'bad' drone narrative we associate with a challenge to existing norms, with a kinder humanitarian drone face it requires consideration. However, as this is a relatively new narrative strand that is far less prevalent than the 'bad' drone narrative strand, it can only be explored briefly. It has not, as yet, established the same level of discourse traction as the 'bad' drone narrative strand, as shown by this exploratory study. As some studies that are being conducted are funded to expressly prove a 'good' drone narrative, there are some ethical hurdles in seeking to research this aspect. This includes the fact that a well-funded drone lobby has clear vested interests in sponsoring such research, which needs to be stipulated clearly here such research is indeed so funded. What we do see emerging, and we will note this in the postscript of this study below, is the concomitant rise of the 'good' drone narrative strand as part of global responses to the COVID-19 pandemic, which emerged at the time of writing.

Chapter 6

UN Responses to Justificatory Norm Contestations and Drone Use

The United Nations and its various role players and institutional entities are truly relevant and important role players in drone discourses. As the use and awareness of the use of drones as the weapon of choice in the 'war on terror' has grown, the institutional actions of the United Nations as an important actor have become pivotal.

Given its potential effect on global peace and security, it is particularly in the context of the growth in the use of drones as a weapon of choice in the 'war on terror' frame that we are interested in the role played by the UN. This includes the UN Secretary General, the UN Under-Secretary Generals, and at least three Special Rapporteurs of the Human Rights Council. We probe these interventions to assess drone discourses through the lens of three critical Special Rapporteur reports of significant importance to drone discourses. We turn our analytical focus to these reports to explore the same four themes we explored in Chapter 4, following Fairclough's three-dimensional framework, to assess these reports and their use of language and institutional power.

These reports are:

- The Report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions, Philip Alston, A/HRC/14/24/Add.6, 28 May 2010.
- The Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, A/HRC/25/59 (Special Investigation on Drone Strikes), 28 February 2014.
- The report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions, Christoff Heyns, A/68/382, 13 September 2013.

In pursuing our general approach, similarly to the approach in previous chapters, we apply the CDA matrix of four analytical questions through which we look at the use of language in the reports. This is the same matrix of questions that was applied to the political speech acts analysed in the preceding chapters. At the level of methods, as Fairclough's three dimensional model reminds us, we need to look at and be mindful of the context within which speech acts or crucial documents are both crafted and delivered to properly probe both the discursive practices and social practices more closely. It therefore is crucial to dwell on the context before launching the analysis of the specific reports cited.

6.1 The Context of United Nations Special Rapporteur Reports: A Response to United States Norm Entrepreneurship?

It is important to flag upfront that the dates of these reports do matter. They speak to deeper levels of dialogue and norm contestation, as the analysis in this chapter will reveal. The first report, colloquially famous as the Alston report, was delivered in 2010 in the context of great secrecy about covert drone usage in the War on Terror. It is worth recalling that great secrecy marked the use of drones in areas that fell outside the strict definition of an area of armed conflict in international law. The release of this report was in the same year as the Koh speech analysed previously, which placed great emphasis on the 'law of 9/11' as a legal basis for drone strikes and challenged core international norms. As the drone discourses started growing far louder within the United States domestically, we see growing pressure for transparency and explanatory speeches addressing the use of this new weapon system and the power it represents. This was so because, at this stage, the United States was the most visible user of drone strikes as part of the 'war on terror' frame, along with the United Kingdom and Israel and, to an extent Russia, all UN member states that have also used drones. More recently, this list would embrace important geostrategic players such as China and Iran.

We have seen the analysis of the speeches made by U.S. policymakers to university audiences, and we have furthermore seen these speeches evolve following the launch of a United Nations-led Special Rapporteur inquiry into drone strikes announced in London in January 2012. This sequencing is neither trivial nor unimportant, as it follows specific complaints to the United Nations by Pakistan, Russia and China about drone usage. These complaints may also foreshadow some great power conflicts in which drones could feature prominently in the international community in the future. It therefore is crucial to dwell on this analytically in the light of the justificatory norm contestations of the use of force that are at stake. In the press statement released in London announcing this inquiry, Special Rapporteur Ben Emmerson stated his intention to probe the facts in the light of to growing global concern about targeted killing and the use of UAVs. He drew attention to their exponential use in both military and civil-use contexts, and showed how these deeply challenge existing legal frameworks of international law. He stated his clear belief that it was incumbent on the international community to respond properly to these new developments, and expressly emphasised the crucial need to reach some form of consensus on the legality and standards that ought to apply to drone use.

As we shall see from the CDA of the Special Rapporteurs' reports, the years 2012 to 2014 were pivotal in the drone discourses with respect to the way a normative and legalistic discourse evolved. This occurred in a dialogue between the Obama administration in the

United States and the United Nation's Special Rapporteurs Alston (as an antecedent in 2010) and Emmerson and Heyns. On the one hand, the Obama White House sought to return the 'war on terror' frame to a rule of law and constitutional imprint or footprint of a law enforcement frame as far as rhetoric in speeches is concerned. On the other hand, the UN Special Rapporteurs were deeply concerned about the maintenance of human rights amidst the 'war on terror's' evolving ideational frames and the spike in drone strikes in the Obama era. Their concerns, and complaints from global powers in the UN Security Council, notably Russia, produced two interrelated and mutually reinforcing reports in 2013 and early 2014 (the release date of the drone strike probe report).

These reports clearly sought to bring international human rights law and the right to life back into the fold of drone discourse. They did so despite the rise in targeted killings. The texts of these reports also sought to ensure that the deeper divisive discourses on the rules of the use of force were brought more clearly into the open. This was done to show the grave and great risks that may arise for the global community if there were to not be any form of consensus about the use of force. The reports both state and allude to the complexities, such as the newly emerging norm of preventive self-defence, which carries its own risks for the global community of nations. These three reports came into being in the context of and at an important time in the life cycle of drone usage during the term of office of President Barack Obama. It is important to note that, unlike a prior unsuccessful effort to probe drone strikes, Ben Emmerson at least had greater co-operation from the administration than any of his predecessors. He had various interactions with Obama administration officials and with Pentagon and CIA officials specifically tasked with oversight over the drone programme. Despite the covert nature of the programme, these interactions were massively important. It is also important to note expressly that, with respect to the question of transparency of an essentially covert programme, these issues were always in the background of the writing of the report, and informed some of its conclusions, as we shall see in the analytical tables and codification of text below.

Given the timing, it is probable, although hard to prove empirically, that the Emmerson report, and his interactions, had an effect on the administration. They may have bolstered some of the efforts made by the Obama administration officials to be more transparent about the drone programme, and its clear efforts to move the programme from the CIA to full Pentagon control in the last few years of the administration's mandate. There are also linkages between the Koh speech and the Alston report, which were both in the same year. In this regard, Alston's near complete dismissal of Koh's arguments of the construction of 'post-9/11 law' in the context of drone strikes, which we will see in the CDA analysis below, is noteworthy from a contextual perspective as we explore the same four themes we probed in previous chapters,

in which we analysed the Obama administration's rhetoric. We did so in order to look for the detailed areas of difference between the norm entrepreneurship of the U.S. Presidency, represented by President Barack Obama and his key advisers, and the norm-suppressing responses of different UN Special Rapporteurs that had an effect on drone discourses. The United States' norm entrepreneurship had a clear effect both within the UN and within the broader international community. Areas of discourse even resemble each other in parts, although clear differences can be noted. We will also be mindful of these differences in the language usage and rhetorical style adopted, and the possible reasons for this. In following Fairclough's three-dimensional model and our four identified themes, we first turn to the context and some of the key issues emerging from the reports themselves. As we have seen previously, United States policymakers at the highest level used specific elite *fora* and speeches to launch a rhetorically robust defence of the legality of drone strikes, the targeted killing programme and its legality and permissibility. The Obama White House fashioned its rhetoric on *jus ad bellum* and *jus in bello* grounds – the very cornerstones of the just war tradition. In this respect, the United States' involvement in a 'non-international armed conflict' (NIAC), enabling the use of force against 'belligerents', was regularly invoked as a justificatory basis for drone strikes. We have seen in the selected speech acts cited how this was used tactically.

The Alston report probed below takes strong issue with this notion. Even to the extent that it may be persuaded to accept a degree of NIAC against Al-Qaeda (which is itself debatable), it reprimands the United States government for impermissible strikes beyond any existing armed conflict in countries such as Pakistan. The Heyns report, by virtue of its focus on the right to life, does the same without naming the United States expressly as an offending party. In terms of the *jus ad bellum* grounds cited for targeted killing, we see the emergence of the norm of preventive self-defence and its use in the context of an 'imminent threat' being countermanded and rhetorically confronted with cold, clinical, analytical and legalistic language. This is a clear rebuke of prominent arguments made in the Holder speech, but also in the Brennan speech, which sought to reveal clear policy prescripts that guide the actions of the United States on drone strike policies.

Whilst the Alston report shows that the notion that a drone strike state does not require the active permission of a 'host state' for pre-emptive self-defence strikes is contentious, it is clear that the requirement that such strikes be expressly reported to the United Nations were they to be conducted is crucial for transparency and legal compliance by member states seeking to comply with their international obligations. *Jus ad bellum* also pivots on necessity and proportionality requirements, which, given the controversies about the capture or kill decisions inherent in the bureaucracy of the decision matrix in the Presidential Policy Guidelines (PPG)

analysed previously, admittedly becomes complex. With respect to *jus in bello* considerations, the Alston report, as we shall see in the CDA to follow, amplifies the fact that the international community of nations condemns targeted killing as unlawful and regards these as assassinations, despite strong United States justificatory rhetoric and argumentation to the contrary.

Many U.S. officials have used surgical metaphors, such as scalpels, for drone strikes to place emphasis on the precision of drone strikes and thereby seeking to justify their use and seeking to surmount the *jus in bello* hurdles. The rhetoric so effectively deployed, as revealed the thematic analysis in Chapter 4, must keep track with the legal framework's concerns of the distinction, proportionality, humanity and necessity of drone strikes.

We see these issues feature strongly in the Obama administration's speeches and in the Special Rapporteur reports that are at loggerheads with arguments that suggest that drone strikes comply with the international law frameworks and architecture. The Obama administration's speeches set up a narrative of active and ongoing legal compliance in their use of argument and persuasion. This can be contrasted with the Special Rapporteur reports, which are largely free from rhetoric and intellectually analytical, and argue that the widening of frameworks through rhetoric does not amount to compliance with the letter and spirit of the law.

These reports meticulously and dispassionately state legal positions without resorting to emotive phrases or to the technique of casting 'the other' as villainous and worthy of destruction. By comparison, the reports are vastly different to the speeches we analysed before. In fact, binary juxta-positioning and relational categories of 'us' and 'them' are not present in these reports at all. They are noteworthy for their clinical treatment of the legalistically complex issues at hand.

The compliance with 'necessity' and *jus in bello* requirements was stressed by both John Brennan and Stephen Preston, legal counsel to the CIA, but it remains arguable whether 'signature strikes' and 'double taps' comply with 'necessity', as we shall see in the analysis that follows. Where there is very interesting common ground between the rhetoric-infused speeches aimed at persuasion and the legalistic Special Rapporteur analysis is in the agreement that exists between Alston and Koh, namely that drones do not necessarily need some special alternative legal regime to other weapon systems. This is also a point made by both the European Union and the United Kingdom in their response to Emmerson's interim report, which is also referred to by Heyns. We shall see the extent to which new discourses on 'killer robots' have evolved beyond this point of seeming agreement in subsequent

chapters, which touch briefly on how disarmament debates may affect drone discourses and civil society actions in this regard as the future unfolds.

As we can see, the Koh speech and Alston report were delivered within weeks of each other. The Alston report was explicit that, in the 'war on terror' frame, many basic criminal acts were just 'rebranded' or 'recast' in order to justify using the laws of armed conflict and to pave the way for targeted killing with the new UAV technology. This response to 'terrorism' and 'asymmetric warfare' allowed a blurring of legal lines of human rights law, laws of armed conflict, the laws of war and inter-state use of force provisions, which are highly problematic in an international context that seeks to move in a norms-based fashion in terms of existing legal codifications and consensus about the norms that already exist.

Where the Alston report is more passionate yet measured in its language, perhaps aimed at shaming those nations guilty of a lack of transparency, is in its effort to flag the lack of transparency where states do not justify their strikes nor show the safeguards for legal compliance aimed at ensuring proper adherence to accountability routes for any possible violations. According to Alston (2010):

The result has been the displacement of clear legal standards with a vaguely defined license to kill, and the creation of a major accountability vacuum.

The report reads like a long list of legal issues: legal frameworks violated, or boundaries pushed, unclear legal issues and what steps the international community could take to revert to normal 'norms' that existed prior to the new set of events, and the advent of targeted killing and rhetorical defences of the broader use-of-force interpretations. The use of targeted killing beyond battle zones is perhaps one of the most critically important issues flagged expressly as problematic and undesirable in the Alston report.

Alston literally takes aim at the notion, advanced so strongly by Koh, that the 'law of 9/11' enables the U.S. to use force in the territory of another state as part of its inherent right to self-defence, given its ongoing armed conflict with Al-Qaeda, the Taliban and 'associated forces'. Alston (2010:) castigates what we may call the 'Koh doctrine of the law of 9/11':

This expansive and open-ended interpretation of the right to self-defense goes a long way towards destroying the prohibition on the use of armed force contained in the UN Charter. If invoked by other states, in pursuit of those they deem to be terrorists and to have them attacked, it would cause chaos.

Alston emphasises that just because the 'belligerents' of 9/11 tossed the rulebook of global peace and stability aside, does not mean states that are members of the United Nations system can merely do the same and proceed to reinterpret those very rules themselves. He

ties the credibility of governments closely to their real actions, and not their words, as far as the rule of law is concerned. He urges states to be scrupulously transparent about how they interpret, apply and enforce the law, especially when and where it is violated. The Alston report draws a clear distinction between the drone programme operated by the CIA and that operated by the Pentagon. It describes the covert CIA drone programme for targeted killing as the clearest challenge to the rules governing the use of targeted killing in situations of armed conflict. As Alston (2010) says in the press statement accompanying his report, the international community simply does not have access to the full facts about this leg of the targeted killing policies or operational details about it, nor does it have the full facts about the accurate civilian death statistics flowing from drone strikes or any basis to verify such information. This is a patent violation of international law.

Understanding this, such secrecy can only serve to violate the legal principle of international accountability and creates utterly problematic precedents for other states to follow. Alston compares the CIA and the Department of Defense's public accountability processes, including their proper reporting of an incident in Uruzgan Afghanistan, where 23 civilians were killed based on erroneous intelligence from drone surveillance operations. As we have seen in the four speeches in Chapter 4, the Obama administration identified international law as the framework that governs drone strikes and stated its commitment to the rule of law and constitutionalism. He subsequently made clear efforts at increasing transparency.

However, as Medeiros (2013) points out, this is riddled with difficulties, as targeted killing patently violates both IHRL and IHL. This is where the justificatory norm contestation of the United States' norm entrepreneurship really matters. Medeiros (2013) also points out that, in terms of United States domestic law, the judicial branch of the government has been rather careful in dealing with things it considers to be non-justiciable political questions, leaving much of the activities and targeted killing operations of the CIA and Department of Defense beyond the reach of judicial review. This is a situation deeply compounded by official secrecy and the phenomenon of state secret privileges that apply to much of the covert programme. He argues that, even if international humanitarian law were the guiding paradigm governing the conflict, it would still see the Obama administration falling short of its standards. With reference to Yemen, Somalia and Pakistan, Medeiros (2013:43) emphasises that IHL and law enforcement paradigms ought to be the guiding principles, which therefore would preclude targeted killing. He further states that the Obama administration may not have fulfilled its obligations under such laws. It would be crucial to have official government figures on civilian casualties to properly determine whether standards of international humanitarian law were met, particularly with respect to distinction and proportionality. This is exactly why the covert nature of the

programme is deeply problematic and profoundly undesirable, as it too directly threatens global transparency rules in the conduct of war.

The Alston report (2010) can rightly be regarded as the first real alarm bell of the risks of new norms emanating from drone use and drone discourses. It represents a clarion call of concern about how this could affect global peace and security as drone proliferation grows exponentially. The Alston report, much like President Obama's subsequent National Defense University speech on United States drone policy in 2013, was the United Nations' first and most important step to make visible and start a drone norms conversation and to go toe-to-toe with the United States' norm entrepreneurship and justificatory norm contestations. It sought specifically to focus on the legal implications of armed drones and their effect on long-standing codifications and traditions that have served the world well since the end of World War II. It called for a summit meeting of key military powers to delineate clear limits for targeted killings. Alston was clearly concerned that the United States was not grappling with its norm-setting power as a lead member state of the Security Council, and that this behaviour would mean that other states would follow suit and assert rights to target individuals all over the world. According to Alston (2010):

But this strongly asserted but ill-defined license to kill without accountability is not an entitlement which the United States or other states can have without doing grave damage to the rules designed to protect the right to life and prevent extrajudicial executions.

Most of the Obama White House's responses would invoke the Koh speech in March of 2010, which sought to outline the 'law of 9/11' grounds for targeted killing and its legal permissibility. The Alston report did not argue with the fact that drone killings can be lawful in battlefield combat situations. However, it raised concerns about strikes in Pakistan, Yemen and Somalia, which could not be regarded as such, and the covert role of the CIA and about who could be regarded as a lawful target even in a battlefield situation, and why. It therefore is noteworthy that the Alston report rejected the notion of pre-emptive self-defence as a reason to kill terror suspects outside of combat zones – thereby challenging one of the fundamental newly-emerging if not cascading norms that appears to be in motion in terms of state practice and the life-cycle of norms for international peace and security.

In a subsequent and separate academic paper, Alston (2011) returned to his concerns about the absence of credible transparency or verifiable accountability for a programme of international killing as drone strikes kept spiking under the Obama administration. Consequently, as the United States could not satisfy its legal obligations, this eroded the norms of the international system, posing risks. Alston (2011:11) stated his strong belief that

the United States was falling short of meeting its obligations to ensure the accountable use of force under international humanitarian and international human rights tenets. He raises the prospect that this would lead to an erosion of the international rule of law and spark the type of precedents that would witness other states behaving in the same manner. He predicted that other states would do the same in pursuit of perhaps ever more dubious motives.

It is important to consider the context of the United Nations' counterterrorism expert Ben Emmerson's report on drone strikes released early in 2014. This was the result of the special probe announced in 2012 following complaints by Pakistan, Russia and China. It followed a year-long probe of drone strikes and interactions with policymakers at the highest levels in the United States, the United Kingdom, Israel and Pakistan, and specific *in situ* country visits to get first-hand information about strikes. From a CDA perspective, the manner of the report's release, accompanied by an interactive and truly clear visual forensic mapping of specifically recorded strikes, made it all-the-more real, visually incontrovertible, and globally visible. As we can see from tracing the dates of the Obama administration's key speeches in 2012 and 2013, which coincided with the probe's timeline, there were direct in-country visit exchanges between Obama officials and Ben Emmerson. According to the report, these included high-level interactions with Presidential staffers and Pentagon and CIA officials engaged in the drone programme. Mr Emmerson's support for John Brennan's appointment to become the head of the CIA in 2013 is a matter of public record.

Emmerson's report analysed 37 drone strikes carried out by the United States, the United Kingdom and Israel in Afghanistan, Pakistan and Yemen and Gaza respectively to arrive at a 'sample' of 30 strikes that he believed these drone-deploying countries had a formal legal duty to explain in international law. Whilst Emmerson noted that operations that kill civilians are not illegal under international law, he notes that states have a legal obligation to be transparent where there are solid assertions of civilian 'non-combatants' being harmed in any way. Emmerson's interim report of October 2013 originally advanced the argument of the legal duty states have to investigate and account for solid claims of civilian loss of life – this is an assertion he bolsters in the final report on the special drone strike probe. According to Emmerson (2014):

... in any case in which there have been or appear to have been, civilian casualties that were not anticipated when the attack was planned, the State responsible is under an obligation to conduct a prompt, independent and impartial fact-finding inquiry and to provide a detailed public explanation of the results.

Interestingly, the Emmerson report does take a position on strikes away from the battlefield. It does call for international agreement on the legal arguments put forward for the covert use of

force (via drone strikes). The report looks at the legal justifications we have seen in the speech acts in Chapter 4 and asks a set of questions – leading questions such as the threshold that needs to be met for action in self-defence, how one would define an ‘imminent’ threat, what the current state of Al-Qaeda is and a host of ancillary issues. This clarified that the international community needs a response and needs a proper and profoundly clear discussion about new norms, instead of them being made on the hoof or by default due to emerging state practice. The fact that Emmerson’s report is informed by specific and incontrovertible fieldwork conducted in Pakistan, along with interviews with key government officials there and with officials in the Obama administration, adds extra weight to these arguments.

As has been observed above, the United Nations Special Rapporteur reports are noteworthy for their impartial legalistic nature and efforts to analyse the practical situation of drone strikes, as well as their effect on prevailing global norms as the touchstone of what they contain. Many civil society reports on civilian casualties released at the same time, including ones by Human Rights Watch and Amnesty International, are far more strident in their use of language, as behoves advocacy groups that are seeking global support for their views on the effect of armed drone strikes on civilians. It is, however, a noteworthy contrast.

Much of the controversy about drones and drone strikes vests in questions about transparency regarding their effect on civilians. This remains true ever more so today in the post-Obama administration of President Trump. The Obama administration made the information about civilian casualties of drone strikes publicly available in 2016, in accordance with a new Executive Order he issued prior to leaving office. The Order sought to clarify United States policy on pre- and post-strike measures to address civilian casualties (Executive Order 13732 of 1 July 2016, Section 3). Section 3’s provisions have subsequently been revoked, as has the last element of official transparency on the civilian impact of drone strikes, making the measurement of compliance with global legal norms much more difficult to ascertain. These measures were not contained in statute and could thus be revoked.

When the Emmerson inquiry into drone strikes was announced, it was welcomed as an opportunity to separate fact from fiction regarding civilian casualties. When it was released, it sat snugly with core concerns about the effect of drone strikes on the right to life detailed in the simultaneously released Heyns report. The Heyns report built on the findings of the Alston report. Taken together, these three reports represent a significant norms statement by the United Nations. This norms statement deals with secrecy, drone strikes, targeted killing and their effects on civilians, and the international legal frameworks that seek to protect civilian life. On this score, Emmerson was arguing that, according to Devereaux (2013), the absence

of objective facts was one of the key issues holding back debates on the legality of drone strikes, as it could not definitively be argued in any direction without proper and full facts that could differ on a strike-by-strike basis.

The inquiry contextually came at a time that the Obama administration was completing a targeted killing 'rulebook' which we now know as the Presidential Policy Guidelines (PPG). Emmerson expressed his hope publicly that the inquiry would provide an opportunity for the administration to make its case publicly. Importantly, the timing of the inquiry coincided with the ACLU's litigation about the drone strike that killed United States citizen Anwar Al-Awlaki and the efforts by the activist human rights body to obtain more transparency about the drone programme more generally. It is also noteworthy that it was the UN-led Emmerson inquiry that sought to foster greater transparency, and not the United States Congress, which seemingly has acquiesced to drone strikes and targeted killing under specific conditions.

The Emmerson report, despite its focus on civilians, cases to be probed and questions about transparency and legal compliance, is not an 'anti-drone' report. It concludes that drones that are used in compliance with the principles of international humanitarian law can reduce civilian casualties whilst assisting military officers with mission control and situational awareness. Despite this, however, Emmerson does castigate the United States and other states that have used lethal drone strikes for not complying with the obligation to safeguard civilians and for offering neither transparency nor explanations when civilians are indeed killed. The clear assertion of this obligation in a strike analysis report is striking, as it arises and exists regardless of the weapon used and is always present when any act causes civilian loss of life, whether within or outside an area of active hostilities or a so-called 'hot battlefield'.

Governments must therefore explain drone strikes simply and clearly. It is an area where the absence of such explanations is a deafening silence that speaks loudly about drone discourses and the legal framework compliance they signify. What made the Emmerson strike report doubly effective, from a multimodal and visual semiotic point of view, is the inclusion of a website, already referred to, with videos that allow a bird's-eye view of the forensic reconstruction of drone strikes undertaken in the course of it, for example from Pakistan. The website and sites of drone strikes analysed can be accessed via <http://www.unsrct-drones.com>. Making this data publicly and visually available was a watershed in public awareness of the drone programme.

It is noteworthy that the Emmerson sample-strike analysis report used cautious language to describe cases included in the sample, with phrases such as 'plausible indication of civilian harm' and 'reasonable suspicion of illegality', which stand in stark contrast with the hot rhetoric of reports by civil society grouping on the alleged numbers of civilian casualties amidst a

dearth of available and verifiable official information sources. Despite the cautious use of language, the report is utterly unambiguous and candid in its strong assertion that it is the governments that bear the legal burden of explaining the strikes, in compliance with their duties in terms of international law.

This report, released alongside the Heyns report analysed below (which built on Alston's), raised core legal issues, including the exact circumstances under which it is or is not lawful for a state to encroach on the territory of another country to conduct a targeted killing operation. These grounds are expressly elaborated upon in the Alston (2010) and Heyns (2013) reports. It is the interpretation of certain sets of facts that arise as key issues in the Emmerson report. He urges that the global community needs to resolve this, as these could become norms through growing state practice if they are not resolved.

It is worth reminding ourselves about the issues that Emmerson raises. Firstly, a state's right to self-defence (and what 'imminence' really means in that context). Secondly, how to judge and what criteria to apply to determine the existence of an armed conflict. Thirdly, the circumstances in which force may be used to target an individual lethally and legally under international humanitarian law (IHL). These issues remain globally unresolved at the level of mutual state consensus. They remain a site of new norm contestation. At the time of writing, these emerging state practices suggest a persisting site of difference and contestation about the right to self-defence. If anything, we may see a new norm of preventive self-defence emerging through state practice in a world marked once more by growing unease over prospects for a return to big-power conflicts, for which we appear poised.

As has been noted, Emmerson's report makes two crucial recommendations:

1. That states that conducted any of the 30 identified strikes publicly explain them and disclose the results of fact-finding inquiries, and
2. That the Human Rights Council set up a panel of experts to discuss and report on the legal issues raised by drone usage for targeted killing.

Emmerson also alludes to the fact that, if states fail in these tasks, the United Nations should put an investigative mechanism in place through the Human Rights Council, the General Assembly, and the Office of the High Commissioner for Human Rights to do so.

Following President Obama's speech at the National Defense University in May 2013, Special Rapporteur Emmerson was in Washington and called for greater clarity on aspects of President Obama's speech on drones. Whilst he called the NDU speech a critical document mapping out United States counterterrorism policy and a great step forward for transparency and accountability, he wanted to see the transparency gap narrow even further, as he believed

some critical questions remained obscured. The Emmerson report was accompanied in strength and conviction by the Heyns report. It reaffirmed the international legal framework and raised concerns about drones and the right to life. It is a particularly important report, given the constantly shifting lines we see in positioning the global 'war on terror' frame or counterterrorism efforts, couched in either a law enforcement or laws of armed conflict paradigm. His report was a strong scholarly, legalistic and principled condemnation of drone strikes, without naming or shaming states or using emotive language. The report warns clearly that the deployment of drone strikes as a form of global policing undermines international security and will encourage states and terrorist groups to engage in a drone-proliferation race – exactly what has transpired since the report's release in 2013. Whilst the Heyns report does not expressly name any states, it does need to be seen in concert with the Emmerson report, which looked expressly at the targeted killing practices of the United States, United Kingdom, Israel and at strikes in Pakistan, Yemen and Somalia, as we have seen. With respect to these countries in particular, and the Obama administration's insistence that drone strikes are only deployed with the consent of the nations, the Heyns report points out that countries are not able to agree to the violation of the obligations they all share under international human rights law and international humanitarian law. In so doing, the report flagged the inherent dangers of the United States' secretive drone wars for civilians and the international security of the international community itself.

In respect of targeted killing and the notion of it being permissible as long as it is done to protect and defend against an 'imminent' threat to life, the report states that the view that involvement in planning attacks is adequate grounds for targeting in the absence of clear evidence of an immediate attack represents a distortion of the requirements founded on international human rights law. The report also singles out the notion of the 'surgical' nature of drone strikes for critique, pointing to the fact that such claims cannot be taken at face value, as terms like 'terrorist' and 'militant' can also be used to describe those who are, in fact, protected civilians. In this sense, these eyes in the sky leave deep imprints and footprints on those they target. Given the effect of the Obama administration's return to a law-enforcement paradigm for the most part, whilst not entirely abandoning the 'war on terror' frame, the Heyns report's words on the role of drones in a global policing function require citation, as it is the new frontier for drone use with human rights implications, where norm contestations about law enforcement paradigms are all but inevitable. According to Heyns (2013):

The use of drones by states to exercise essentially a global policing function to counter potential threats presents a danger to the protection of life, because the tools of domestic policing (such as capture) are not available, and the more permissive targeting framework of the laws of war is often used instead.

Heyns believes the rise of drones and the expansive usage of armed drones by first adopters (which include the United States, the United Kingdom and Israel (as Emmerson made clear)) must be challenged from a right-to-life vantage point as it challenges the overall core of human rights. According to Heyns (2013):

The expansive use of drones by the first states to acquire them, if not challenged, can do structural damage to the cornerstones of international security and set precedents that undermine the protection of life across the globe in the longer term.

The Heyns report was also a norm-setter, as it was one of the first United Nations reports to start making clear overtures regarding the kind of disarmament discussions that the international community would need to engage in to achieve a ban or moratorium on what is referred to as 'killer robots' or lethal autonomous weapons systems. Due to this linkage, we will see how the Campaign to Stop Killer Robots (CSKR) is inextricably linked with the evolution of drone discourses, embedded as they are, in turn, in the 'war on terror' ideational frame, targeted killing and counterterrorism. The entire tone, content and norm clarity of the Heyns report attests to this and calls for a global moratorium on testing, production, assembly, transfer, acquisition, deployment and use of killer robots until an international conference could develop clear rules for their use. Despite this, countries such as the United States, the United Kingdom, Israel, Japan and South Korea reportedly already have such weapons. On the question of the use of mechanised systems in policing, the Heyns report cautions that the growing use of drones in law enforcement may violate human rights. Such use of armed drones in law enforcement will depersonalise the use of force and infringe rights, one could argue, exactly as drones have done in covert wars and with targeted killing under the rubric of 'war'. This is where the complementarity between the Heyns report and the Emmerson report is strong indeed. Machines cannot minimise the appropriate level of use of force that is required of police officers to respond to dynamic situations. The report raises these concerns with respect to the use of drones by police forces and by private security contractors (PMCs). Germanos (2014) rightly raises the alarm about whether any remote-weapons systems can be viewed as legal weapons in law enforcement as they have been in contexts of armed conflicts. These are crucial future questions as we see the rise of drones used in law enforcement in response to the global emergence of the COVID-19 pandemic and social-distance policing, for example. As if it was a fearsome sense of foreboding of what could come in weapons development, the Heyns report goes beyond drones and the right to life complexities and raises concerns about the impact lethal autonomous weapons could have, as they would distance humans even more from kinetic decisions than drones already do, and thereby pose ever-deeper dilemmas.

As Heyns notes (2013), such weapons in state arsenals would exacerbate the distancing we already see and place targeting decisions in robotic talons. This would take humans ever further away from kinetic situations and create dubious detachment from decisions to kill and from the act of killing itself. The year 2013 was therefore a significant one for drones, for the United States and for the United Nations. Member states' drone policies, especially of highly active states, came under ever-closer global scrutiny. It was also the year in which the United Nations' Secretary General's (UNSG) 10th Report on the protection of civilians in armed conflict called for international action to address global concerns over fully autonomous weapons ('killer robots' or lethal autonomous robots), which had armed drones as a crucial predecessor. These concerns feature strongly in Section III of the 10th report, which flags drones (RPAs) and their compliance with international human rights law (IHRL) and international humanitarian law (IHL) and proliferation as key concerns and challenges to the protection of civilians in armed conflict.

The final paragraph of the 10th report of the UNSG, paragraph 29, raises critical questions about 'killer robots'/lethal autonomous robots. The UNSG followed these up by leveraging his role as norm-setter-in-chief for the entire United Nations with a clear statement at the beginning of the annual meeting of the Convention on Conventional Weapons (CCW) on 11 November 2013. On this occasion, he made a profound and first statement on 'killer robots' and the need for far greater dialogue between the United Nations, member states, civil society (such as the ICRC) and others to better understand the impact of such systems on international human rights law (IHRL) and international humanitarian law (IHL), and on the Convention (CCW) itself, as we shall see in subsequent chapters of analysis. Apart from the call in the Heyns report for a moratorium on "killer robots"/LARs, the UN High Commissioner for Human Rights, Navi Pillay, added her voice to these calls in her 10 December 2013 Human Rights Day statement, in which she too flagged the legal and ethical challenges this will pose. She reiterated that, regardless of the rise of these new weapons systems, existing international human rights law, international humanitarian law and the laws of armed conflict frameworks all remain in place and applicable. Furthermore, she stressed that member states of the UN need to continue to respect these frameworks, regardless of the evolution of weapons systems in an age of technology and innovation.

These statements all strongly echo the prescient words of the Alston (2010) report that urgent attention should be paid to the legal, ethical and moral implications of all these evolutions of robotic technologies and their usage in warfare. Heyns, Akande, Hill-Cawthorne and Chengeta (2016) argue once more that, for a drone strike to be 'lawful' it must satisfy all applicable international legal regimes: *Jus ad bellum*, international human rights law (IHRL) and international humanitarian law (IHL). Whilst a state may satisfy the *jus ad bellum* requirements

as moral and legal justifications, which the AUMF and ‘preventive self-defence’ rhetorical interventions seek to do – as we have seen in the rhetoric of the speech acts in Chapter 4 – it may still fall foul of IHL and IHRL at the individual civilian level, where it really counts. This is also where states cannot simply ‘agree’ with each other to certain practices, which may result in either an IHL or an IHRL infraction and violation. One cannot simply agree to break the law *en masse* – certainly not on a global scale. One of the most striking features of the Heyns *et al.* (2016) research is its focus on the requirements to cross the threshold for a conflict to be regarded as a non-international armed conflict (NIAC), the grounds invoked by the AUMF Resolution of the United States Congress and a key part of what Koh has called ‘the law of 9/11’, and what such a global non-international armed conflict would look like in terms of who could be targeted. This comprehensive study echoes the bulk of the Heyns report’s findings and assertions that, even though it does not mention the United States by name, its drone programme may challenge international law quite fundamentally, with ominous consequences. According to Heyns (2013):

The Special Rapporteur is seriously concerned that the practice of targeted killing could set a dangerous precedent, in that any Government could, under the cover of counterterrorism imperatives, decide to target and kill individuals on the territory of any state it considers that said individual constitutes a threat.

What emerges clearly from the work of Alston, Emmerson and Heyns, and by extension the UN’s norm pushback, is the extent to which transparency is crucial and substantively tied to our ability to judge whether member states of the international community of nations are adhering to their obligations under international humanitarian law, and to make judgment calls accordingly. In this regard, the UN’s norm-shielding efforts may be better characterised as seeking norm compliance with existing legal frameworks and to limit deviations, than to traverse vast new areas of norm entrepreneurship *per se*. These efforts by the reports are, in a sense, a limited entrepreneurship that seeks legal compliance and a protection of the UN system, which has served international peace and security well for generations. In this regard, the very nature of covert drone strikes and the absence of government-released and reliable statistics on civilian casualties ought to be an inflexion point in drone discourses. One can argue that a moment of deep reflection is also required in the international community’s efforts to build a newly revised and updated Convention on Conventional Weapons structure and codifications that can deal with drones and ‘killer robots’ or lethal autonomous robots and lethal autonomous weapons systems (LAWS). As far as the United States’ position on transparency and its drone wars is concerned, Alston (2013) states that what transparency has come about has often not been much more than a public relations campaign. Worse still, it was combined with a minimalist reduction in the range of targets and circumstances of

strikes, none of which addressed the crucial issue of the absence of transparency and continued covert actions. In the absence of such proper accountability and more thorough transparency, the governing assumption surely is and must be one of, at a bare minimum, a violation of international humanitarian law.

We now turn to a more detailed CDA of the three reports, along the same four-question themes matrix we used for the speech act analysis found in Chapter 4. This will make the contrasts already hinted at above far more express and explicit.

6.2 A Critical Discourse Analysis of Three Special Rapporteur reports: Philip Alston, Ben Emmerson, and Christof Heyns

At the outset it deserves mention that the Alston report directly attacks some of the assertions made in the Koh speech analysed in Chapter 4 above in its sections that deal with drone policy. It states clearly:

... it does not address some of the most central legal issues including the scope of the armed conflict in which the United States asserts it is engaged, the criteria for individuals who may be targeted and killed, the existence of any substantive or procedural safeguards to ensure the legality and accuracy of killings, and the existence of accountability mechanisms (Alston, 2010:8).

As we will see, the Alston report, given its United Nations mandate, is focused on targeted killing by drones. In this regard, it places a special emphasis on the way the boundaries of legal frameworks have been altered to accommodate the targeted killing of 'terrorists' in the context of asymmetric wars. This is a core focus of the Alston report, as we shall see below. It is important to note upfront that, in a specific sense, there is a clear, directly confrontational and intertextual conversation present in the Koh speech and in the Alston report on principled matters of norms. We will see this repeated often where the speeches in Chapter 4 sought to craft a verbal rhetoric of justificatory norm contestation and the UN Special Rapporteur reports sought to strengthen and entrench existing internalised and institutionalised norms against any form of attack.

6.2.1 CDA Case 1: The Alston* report – A/HRC/14/24/Add.6 28 May 2010

(Given the mandate of the Special Rapporteur, the issue of drones is restricted to targeted killing in this section of extracts. This is also true for the Heyns report that follows, for the same reasons of mandate).*

It is important to take cognisance upfront of the fact that the mandate of both Special rapporteurs Alston and Heyns was restricted to targeted killing and that their mandates also became part of their discourses on the issues raised by United States norm entrepreneurship

on this topic. On the framing of drone wars – the first theme in Fairclough’s (1989, 2014) three-dimensional framework – Alston (2010) places emphasis on the areas or legal frameworks in which core normative international tenets have been violated to create scope for targeted killing. The Alston report (see Annexure VII) emphasises the dangers of blurring the lines of the frameworks of IHRL and IHL and the laws of armed conflict to create scope for a widening of international law provisions on the use of interstate force. The report stresses the crucial role of the international community to return to the normative frameworks that prize the right to life contained in the International Covenant on Civil and Political Rights and the international human rights law instruments. According to Alston (2010), too many acts that would be criminal are merely rephrased to justify them falling under the banner of the laws of armed conflict to facilitate drone strikes. Whilst drones are theoretically no different from any other weapon system when they are used under such policy interpretations, they become very different indeed. According to Alston (2010) on the first theme:

The result of this mix has been a highly problematic blurring and expansion of the boundaries of the applicable legal frameworks.

As he states clearly, critical legal questions are the same for each weapons system throughout history – whether it properly complies with IHL in the manner of its use. This has not altered at all. On the second theme of the relational polarisation of ‘us’ and ‘them’, the Alston report carefully refers to terrorists who wage deliberate asymmetric wars and, whilst using some controversial concepts such as ‘lawful combatants’ and ‘direct participation in hostilities’, the report is critical of such categories as well. It emphasises the reality of ‘a war’ or armed conflict situation. According to Alston (2010):

... response to terrorist threat and as a necessary response to the challenges of ‘asymmetric warfare’.

The Alston (2010) report comes into its strength in raising concerns about civilian casualties and the victims of drone strikes. It raises strong objections to the lack of accountability and transparency and cautions about legal violations, whilst rebuffing any notion that the biopolitics of drones could ever be ‘surgical’. It emphasises the effect of ‘distancing’ on the quality of intelligence gathering and decision-making and how this multiplies the risk of civilian deaths with a ‘PlayStation mentality’. The Special Rapporteur decries the legal violations of a lack of transparency about drone victims. According to Alston (2010):

Most troublingly, they have refused to disclose who has been killed, for what reason, and with what collateral consequences.

The Alston (2010) report argues that there is a possibility of war crimes in the context of the moral and/or legal justifications for covert drone strikes. On this last theme of our analysis, he raises the prospect of state liability for loss-of-life provisions in international law. He raises the prospect that the use of drone strikes outside of armed conflict may never be regarded as legal. According to Alston (2010):

The states have failed to specify the legal justification for their policies, to disclose the safeguards in place to ensure that targeted killings are in fact legal and accurate, or to provide accountability mechanisms for violations.

The Alston report recorded a situation where no single state that practised targeted killing had ever disclosed the full legal basis for this killing or its interpretation of any of the legal issues set out meticulously in the report, or the accountability processes it had set up or the practices to ensure that any unlawful killing would be probed, prosecuted and punished under global accountability prescripts. Alston bewailed how the absence of any kind of transparency about targeted killing policies violated the international legal framework that restricts the unlawful use of lethal force against individuals, and the fact that no factual information about targeted killing policies, their targets and their outcomes was available anywhere. The Alston report, as the Heyns report also does three years later, made it clear that the absence of information made it impossible for independent observers and the international community to judge whether these killings were lawful or not.

What is notable is that the Alston report sets out a host of criteria on the IHL, IHRL, LOAC and inter-state use of force and laws of war criteria that normally would apply. In studying the cases of Israel, the United States and Russia, states that use targeted killing and new technology, including drones, for targeted killing, Alston notes the absence of any clear policy or legal explanations and an abject absence of transparency about drone usage for targeted killing. As mentioned, he practically dismisses the Koh speech as being far too vague. Into this breach stepped Pakistan, with a clear request for a proper probe of United States drone strikes on Pakistani territory. This acted as a precursor to the formal vote by the Pakistan Parliament to disallow such strikes in its territory. The steps taken by parliament effectively removed the last vestige of consent by Pakistan for United States drone strikes in the FATA areas of the country. These had been agreed to by some Pakistani generals at the level of intelligence co-operation between agencies in both countries in the past, with no civilian oversight of any kind on the Pakistani side. Parliament rectified this lack of democratic accountability.

This, in turn, created the process that established Special Rapporteur Ben Emmerson's probe of drone strikes. It paved the way for his interactions with Obama officials as part of these probes and fuelled the Obama administration's own desire for more robust 'rule of law'-based

approaches to the forever ‘war on terror’ frame and the counterterrorism effort. The subsequent flurry of speeches analysed in Chapter 4 that sought to make drone policy and its moral, ethical and legal rationale more transparent flowed from there.

The Emmerson inquiry and drone-strike study had three goals, namely to:

- (a) evaluate allegations that such operations have resulted in disproportionate levels of civilian casualties,
- (b) make recommendations concerning the duty of states to conduct independent and impartial investigations and to make public the results, and
- (c) identify the disputed issues of international law relevant to such operations and make recommendations aimed at promoting international consensus.

It therefore is important to note that the Emmerson and Heyns reports that followed Alston’s are to be read together as strong positions taken. The Emmerson report – the specific strike analysis – seeks, importantly, to put specific states in the proverbial ‘explanation dock’, whilst the Heyns report seeks to make explicit implicit legal tensions and accountability concerns. Overarching both reports are concerns of transparency and the effects these strikes have had on actual civilian victims, and the consequences for international law frameworks and the just war tradition. This is important, as it affects the norms that such precedents may give rise to in the international community in terms of prospects for global peace and security. We now turn to the Emmerson (2014) report using the same four themes we applied to the Alston report.

6.2.2 CDA Case 2: Emmerson Report – A/HRC/25/59 28 February 2014

The Emmerson drone strike analysis report focuses on the civilian effect and the use of remotely piloted aircraft (drones) in lethal counterterrorism operations in the context of an asymmetric conflict. Following Emmerson’s interim report of October 2013, the United Nations General Assembly adopted a consensus resolution (UNGA Resolution 68/178/par 6(s)), which urged states to ensure that any measure to counter terrorism, including the use of drones, must comply with state obligations under international law – including the UN Charter itself, IHL, IHRL and, principally, requirements of proportionality and distinction. The report tracks civilian casualties and casualty rates in Afghanistan, Pakistan, Yemen, Somalia and Gaza and the responsibilities of states such as the United States, the United Kingdom and Israel.

In terms of the framing of drone wars, the Emmerson (2014) report (see Annexure VIII) flags the danger to international law and statecraft of different states approaching the lethal use of drone strikes differently and uses references to UNGA Resolution 68/178/6(s) to remind states

that they have a duty to abide by international law when dealing with drone strikes. According to Emmerson (2014):

[it] ... runs counter to the obligations identified in paragraph 6(s) of UNGA Resolution 68/178 ... fails to provide adequate protection for the right to life; poses a threat to the international legal order and runs the risk of undermining international peace and security.

In terms of our second theme of 'us' and 'them' relational polarisation, the Emmerson (2014) report does not leverage such emotive rhetorical devices at all, and simply states in an anodyne manner that drones are used by states as part of counterterrorism operations to target terrorists. According to Emmerson (2014), remotely piloted aircraft are used

... in extraterritorial lethal counterterror operations, including in the context of asymmetric armed conflict.

On the third thematic question, on the framing of victims (civilian victims) of drone strikes, the Emmerson (2014) report uses its evidence-based strike website as a vivid reminder to urge states to comply with the principles, prescripts and norms of IHRL and IHL. This report is the strongest ethical and moral reminder that states have an international law-based duty to probe civilian deaths and casualties of drone strikes and to lodge formal reports with the United Nations in this regard for legal compliance. According to Emmerson (2014):

The sample strike analysis in Section C below is intended to provide a clear opportunity for the relevant states to fulfil their international obligations of transparency and accountability ... by making public the results of their own inquiries into the sample strikes identified.

On the fourth thematic question, on the moral/legal justifications for drone strikes, the Emmerson (2014) report calls on states to satisfy their legal obligations to file reports and to do proper incident reports under existing UN obligations, and calls for proper consensus amongst state parties to clear up any existing differential practices. According to Emmerson (2014):

... mere existence of credible allegations that civilians were killed or injured does not necessarily establish any violation of IHL or IHRL. Still less does it provide evidence of a war crime ... most relevant evidence ... remains in the exclusive possession of the alleged perpetrator states.

At the press conference that kicked off the inquiry, Emmerson stated that the probe came about at the request of member states of the UN that have conveyed their deep concerns

about drone strikes and their effect on the frameworks of existing international law. He shared his firm belief that the international community should be seized with these questions of applicable standards for drones and their use for counterterrorism and counterinsurgency, where such use had thrown up the most critical normative questions of legality. In launching the probe, he was explicit that the views that Western democracies were in a global ‘forever’ war against a stateless, borderless enemy was heavily disputed by other member states of the United Nations, which prioritise IHRL and the right to life that permit targeted killing only for self-defence. He also emphasised the importance of Yemen, Pakistan and Somalia having to agree to the United States using force of any kind in their countries. This report therefore also is interesting because it reveals geostrategic tensions. China, Russia and Pakistan requested it, and states that received attention in the report include the United States, Russia and Israel. What also must be highlighted is that the Emmerson report focused on the civilian effect of drone strikes and consequently on the legal frameworks that seek to protect civilian life and the legal frameworks at issue. These have historically been sites of immense norm contestation. The Emmerson report and the Obama administration’s speech acts, despite their interactions, contain clear contrasts. Emmerson had a plethora of meetings in and visits to Pakistan (including meetings with Pakistani officials), Colombia and the European Union. He had meetings with senior Israeli officials and met with senior lawyers of the United States Department of State, the Department of Defense, the Justice Department, the office of the Director of National Intelligence, the CIA, the President’s National Security Staff, the Director of the CIA, the Deputy National Security Adviser for Strategic Communications and Speechwriting, and the Senior Director for Multilateral Affairs and Human Rights of the President’s National Security Staff in Washington from 1 to 7 June.

Given the various speeches by Obama administration officials in 2013, and the focus on speech acts and rhetoric in this study, the contrast between the clarity about IHL and IHRL compliance in the Emmerson report and his concern with President Obama’s National Defense University speech is of particular importance for this study when we contrast norm formation, norm compliance and state practice regarding drones. As was the case with the Koh-Alston speeches, there is a fair amount of conflict in the discourses we see between the Emmerson and Obama speeches as they relate to drones and legal compliance with IHL, IHRL and the framework of international law. This is to be expected, as the Obama administration’s speeches form a wall of policy and policy entrepreneurship, and the same can be said of the various UN Special Rapporteur reports that sought to respond in kind with robust defences.

This is all the more interesting as the interim report, released in October 2013, expressly urged the United States to clarify legal and factual issues raised in it and to declassify as much as

possible about its lethal extra-territorial counter-terrorism operations and the civilian casualties they had caused and how these were gauged. This is even more interesting as it appears that Emmerson may have had sight of the Presidential Policy Guidelines document as far back as 2013 before it was formally declassified in 2016. Whilst this may be in the realm of speculation, it appears likely to have occurred if only to have avoided an even more harsh verdict by the UN.

In noting great variations in drone usage by member states of the United Nations, the Special Rapporteur's report to the Human Rights Council of 10 March 2014 serves as a lengthy and well-argued reminder of the areas in which there is a lack of consensus among member states. What is important, though, is that as in the Alston report before it, and indeed Emmerson's own interim October 2013 report, the progressive and prevalent state practice of using preventive self-defence notions and expansive notions of the War on Terror to conduct lethal drone operations was becoming widespread state practice. By extension, it was precedent-setting for the international community, as existing norms were deeply and profoundly challenged by these practices and their increasing adoption by more states.

This is certainly true as drone proliferation, drone lobbying and lethal operations continue apace, also with the rise of the new 'humanitarian' drone used by the United Nations itself in more robust peacekeeping missions. This phenomenon we will analyse more clearly in the next chapter of this study. The effort made in Emmerson's report to urge all member states to achieve an international consensus on the applicable legal principles for drone usage in the context of prevailing international law is both commendable and a striking feature of the drone discourses looked at in this study. It is an example of an effort at norm entrepreneurship in action, where states are clearly urged by the Special Rapporteur to bring their state practices in line with the prevailing legal frameworks and in compliance with international law (including in compliance with UN GA Resolution 68/178). It is to be seen in conjunction with the equally strong report of Special Rapporteur Heyns and his emphasis on the right to life. It is this report to which our four key questions-based CDA data coding now turns to the Heyns report for analytical purposes.

6.2.3 CDA Case 3: Heyns Report – A/68/382 13 September 2013

As we shall see, the Heyns report, which builds on the Alston report of 2010 and sits cheek-by-jowl with the interim Emmerson Report of October 2013 and the subsequent investigation report of February 2014 covered in this study's CDA, places great emphasis on the basic outlines of international law. It pivots principally on the enshrined right to life protected in international human rights law (IHRL) and the effect that the use of remotely piloted aircraft (drones) has on this right. The clarion call of the report, as we shall see, is the call on the

Human Rights Council to remain engaged with the questions not only of drones, but also future challenges posed by lethal autonomous/robotic weapon systems (LARs).

In following Fairclough (1989, 2014), the first theme of the framing of drone wars in the Heyns (2013) report (see Annexure IX) raises legal complexities, but then hones in on the effect of drone strikes on the right to life under IHRL protections. According to Heyns (2013):

Both armed and autonomous weapon systems raise complicated questions and issues of IHL as well as IHRL – and in particular, right to life issues.

The Heyns (2013) report, on the second thematic issue, steers well clear of ‘us’ and ‘them’ relational polarisations and any relational ‘othering’ that would be dehumanising. It focuses instead on the right to life and any issues that affect this right, which is blind to ‘othering’ as a pure human right. The Heyns (2013) report is strongest around the effect on victims of drone strikes – our third thematic area. Having raised concerns about drone strikes in Yemen, the Special Rapporteur’s work sticks strictly to the principles of IHRL and the right to life and, like Emmerson above, emphasises adherence to UNGA Resolution 68/178/6(s). Heyns (2013), like Emmerson, emphasises transparency as a core tenet of international law and as key to determining the real impact of drone strikes on victims. He notes the European Union and United Kingdom positions on the Emmerson report’s findings of the adequacy of international frameworks and how they are adequate, as long as their boundaries are not challenged by justificatory norm contestations in specific states’ drone policies to grapple with drones. According to Heyns (2013):

Some attacks may have occurred in the confines of an armed conflict, and, as such, should be measured by the more stringent requirements of international human rights law, which they most certainly did not meet.

... outside of the narrow confines of armed conflict, any killing must meet the requirements of IHRL, and be strictly necessary and proportionate.

On the use of force, Heyns (2013) strongly asserts that the right to life can only be safeguarded properly if all constraints that exist on the use of force are complied with, and existing use-of-force norms must therefore not be abandoned for drone use to become commonplace. He echoes Emmerson’s calls for compliance with all international law requirements in terms of transparency. On the fourth theme of our analysis, of moral and/or legal justifications for drone strikes, he says that, through state practice, states are using wide discretion on taking lives with targeted killing, with no transparency and accountability. This deeply challenges the use-of-force rules, which require proper clarity. He states that, if such clarity were not forthcoming, the Human Rights Council would have a crucial responsibility to express a view on how the

normative frameworks were being challenged by drones and could be challenged by lethal autonomous weapon systems in the future. The Human Rights Council therefore would have to set out some form of basic view of the international law it considers to be applicable. According to Heyns (2013):

Legal uncertainty in relation to the implementation of important rules on the international use of force presents a clear danger to the international community.

As we can see from the analysis of these three crucial United Nations Special Rapporteur reports (Alston, Emmerson, and Heyns) on drones, the language is highly legalistic and largely dispassionate, and not rhetorical.

This starkly contrasts with the ‘us/them’ relational discourses and rhetoric-laden speeches and political speech acts that sought to force specific hegemonic interpretations of United States security concerns and paradigms, as we have seen in Chapter 4. Those texts and speech acts sought to present a specific United States-centric state practice-led interpretation of new norms of preventive self-defence in use-of-force terms. As the Heyns report has made clear, these differences in state practice of the law on the use of force has the potential not only to greatly undermine international peace, security and stability if they are not properly codified and agreed amongst states, but could have a dire impact on human rights and the right to life in particular. This will be the case if they are accompanied by an increased level of proliferation of drone or other weapons systems in any form without new controls being agreed. Thematically we note very specific dialogue between the Koh speech and Alston report and the Obama speech and Emmerson reports.

A thought-provoking collection by Nowak and Charbord (2018) argues persuasively that a state’s lack of respect for human rights is counterproductive and can serve to hinder instead of advance the fight against terrorism. In a chapter by Emmerson (2018), he reiterates the views he espoused in his report and the effect such practices have on human rights in the absence of proper transparency and accountability. Indeed, the way in which the *jus ad bellum* is evolving due to United States drone strikes has raised alarm amongst international lawyers that these norm-setting precedents could lead to the erosion of crucial rules of international law that have served the global community well for centuries.

Aronsson (2014) argues that the arguments (discourse) advanced by the United States in the context of lethal drone strikes will have potential implications for the law on the use of force. In fact, we have already seen in previous chapters of this study how the preventive self-defence norm-setting process appears to be progressing, with clear *jus ad bellum* implications for the international community in the context of drone proliferation.

It is vitally important that analytical scholarship lays these discourses bare in a systematic way to highlight the terrain not only for future scholarship, but also for the future of peace and security in practical terms in a world of extensive drone lobbying and drone proliferation.

Whilst it is perhaps far too early to tell, it appears more than probable in the absence of proper non-covert and fully declassified information, that the Trump era will sweep away much of the transparency and rule-of-law efforts made by the Obama administration towards the latter part of 2016 before leaving office. The various Executive Orders and defence appropriation signing statements that were issued by the President to bring about greater accountability to the drone programme could simply disappear, as they are not codified in binding laws.

It is an open question, also posed by Boussios (2014), whether the Obama administration used this opportunity effectively to create some parameters to reign in an all-encompassing and inevitable drone proliferation race. As we shall see, this question is high on the agenda of global civil society organisations in arms control and disarmament discussions.

Following the reports of Alston, Emmerson and Heyns, and their continued passionate scholarship following the publication of their reports, Corsi (2017) argues that it is likely that the War on Terror is more of a semantic than a legal war and that the International Convention on Civil and Political Rights (ICCPR) applies during conflict, with its core focus on the primacy of the right to life. She argues that, given the likelihood that the Trump era will both increase drone strikes and roll back Obama-era safeguards, a human rights framework that is more demanding in relation to fatalities than an international humanitarian law one would be needed urgently. Corsi says that the right to life is crucially inviolable and attaches to everyone, regardless of the territory in which they may be 'targeted'. This will also be true in law enforcement and migration debates of the future, where new weapons systems and surveillance tools may be deployed.

Following Heyns's lead, she flags that the ICCPR rights also apply in ungoverned territories, and that terrorist threats in and of themselves do not obliterate the rights, including the right to life, nor the applicability of the ICCPR.

It seems clear that the legal frameworks and norms within the broader United Nations system will be among the most important norm-defining issues of the 21st century.

6.3 Analysis: A Robust Efforts at Norm Suppression in response to Norm Entrepreneurship

In 2013, Micah Zenko produced a special report entitled *Reforming United States Drone Strike Policies* for the Council on Foreign Relations. The report drew attention to the controversies associated with the United States' targeted killing with drones and the importance of the quality of intelligence that informs drone strikes. It was unequivocal in calling for an end to so-called

'signature strikes', otherwise known as 'crowd killing', and proposed far greater Congressional oversight and scrutiny over drone the killing of specific terrorists with transnational goals. His report vividly showed the importance of the United States working internationally for a set of norms to govern drone strikes and called for attention to be paid to the consequences of a weak oversight over drone programmes and their governance, both domestically and by the international community at large. In seeking to counter resistance to United States drone policies globally, a contentious idea which itself speaks to justificatory norm contestation, Zenko (2013) proposed some reforms to drone strikes and targeted killing to curtail high levels of global opposition to it. According to Zenko (2013:4):

Reforming United States drone strike policies can do much to allay concerns internationally by ensuring that targeted killings are defensible under international legal regimes that the United States itself helped establish, and by allowing United States officials to openly address concerns and counter misinformation.

He warns that, in the absence of such reforms, the risk would be one of global, unregulated drone use that would amount to unaccountable tools allowing states to deploy and use lethal deadly force with absolute impunity. This is exactly what is at stake in drone use and United States justificatory norm contestation to allow such use. Fundamentally, it is the reason why the international community has put up such a formidable fight and concerted pushback against the kind of United States norm entrepreneurship we have analysed in previous chapters while probing the rhetoric of the Obama administration and its drone policies. We now turn to the specific analysis of the formidable United Nations response we see through the various efforts of the Special Rapporteurs of the United Nations Human Rights Council to curtail justificatory norm entrepreneurship regarding targeted killing and the use of force outside of armed conflict. As we have seen in the CDA above, these Special Rapporteurs used their own voices and rhetoric in measured legalistic tones to respond robustly to assertions made by the United States. We see this with consistency across the reports of Philip Alston, Ben Emmerson and Christof Heyns.

According to Zenko (2013), the United States has a special responsibility to pay heed to such pushback, as it has a unique duty and role and responsibility to engage with the United Nations and other human rights defenders to make sure that it properly shapes what the world could regard as an acceptable normative framework for the proper use of drones. Zenko's (2013) Council on Foreign Relations Report has gone as far as to call drone strikes hazards due to four critical issues they affect and that we have seen emerge above: alignment with broader United States foreign policy goals and objectives, 'signature strikes' (and their actual legality), civilian casualties (and international law), and questions of transparency and accountability

and legality (and compliance with international law requirements). These are exactly the crisp issues to emerge from a close analysis of the UN Special Rapporteur Reports that have been analysed using the four themes identified for analysis following Fairclough's three-dimensional model. One of the most crucial areas of concern to the international human rights community has been the question of 'signature strikes' or 'crowd killing'. According to Zenko (2013:7):

Human rights advocates, international legal experts, and current and former United States officials dispute whether this post hoc methodology meets the principle of distinction for the use of lethal force.

He also points to deep concerns about civilian deaths, which we have seen across the reports analysed above, as these are more of a reflection of policy choices made deliberately that challenge the very tenets of international law and the rule of law than they are a pure weapons systems issue. These policies include how targets are selected, the way the public is informed of who is targeted, and the position that was maintained for quite some time that even highly publicised CIA drone strikes are covert and thus cannot be acknowledged. Zenko (2013) argues that the United States justificatory norm contestation draws its power from the AUMF, and that the United States' use-of-force approach to Article 51 of the United Nations Charter has not been challenged adequately by other member states of the UN system. These states have preferred to adopt similar tactics themselves, placing overall global norms in jeopardy. This absence of either proper condonation or condemnation by others, or the failure to escalate the question of the United States' emerging state practice, has not been escalated properly to the level of the United National Human Rights Council by enough states. Despite this, the United Nations' various Special Rapporteurs, as analysed, have all taken clear issue with United States justificatory rhetorical contestations that represent norm entrepreneurship as facilitating the norm regression of existing norms and creating resultant contestation.

According to Zenko, and as we see in the analysis here, the United Nations Special Rapporteurs have been activist and condemnatory of United States assertions of the legality of drone strikes. Whilst they have targeted more states than the United States and have included Israel, Russia and others in some key reports, it is the United States that has taken the most direct route to contest global norms consistently, following similar contestations by Israel. The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions repeatedly requests information about non-battlefield targeted killings of the United States, including what international laws apply, whether such targeted strikes have taken place with host state consent, and what specific safeguards should have been put in place. Zenko (2013) points out that the United States has persistently challenged the mandate of the Special Rapporteur, especially the fact that any military action it takes under the AUMF falls outside

the scope of the mandate of the rapporteur. He notes how, despite the relative transparency of the Obama years, even this administration was largely silent on 'crowd killing' practices, as such 'signature strikes' are patently a clear violation of international law and human rights prescripts.

Jose (2017) argues that the killing of Osama bin Laden opened a window of opportunity for United States norm entrepreneurship on a global scale to establish a new targeted killing norm. This was strongly resisted by human rights activist groups such as Human Rights Watch. She shows that Human Rights Watch used its transnational networks to actively resist such norm entrepreneurship speaking vividly to the life cycle of norms, and the work of Finnemore and Sikkink (1989), Stimmer (2019) and Iommi (2020) on understanding why some norms rise, some regress and others alter over time as they are contested. In a clear analysis for the ICRC, Casey-Maslen (2012) crystallises what we see in the Special Rapporteur Reports analysed above. He probes how drone strikes put pressure on the just war tradition (both *jus ad bellum* and *jus in bello*) and on international human rights law. He warns of the dangers posed by drones to the more general ban on inter-state use of force, and the global human rights regime pointing to the fact that they may comply with the just war tradition on the battlefield in the context of armed conflict, which is already a very steep hurdle to surmount in terms of international humanitarian law, but that they most certainly violate fundamental human rights prescripts when they are used off the battlefield. According to Casey-Maslen (2012:597):

Greater clarity on the applicable legal regime along with restraints to prevent the further proliferation of drone technology are urgently needed.

There can be little doubt that full robotic or autonomous warfare would be both Clausewitz's feared absolute war and the greatest threat to *jus in bello* and the global cause of human rights since the invention and ultimate ban of chemical weapons. The latter were dealt with properly through United Nations disarmament efforts. We have seen that what is not in contention is that drones may be used legally in exceptional armed conflict circumstances, even if targeted killing almost always will violate the right to life. However, it is the various shades and circumstances of different evolutions and permutations of events that may not adhere to the prescripts of *jus in bello*, where the international humanitarian law questions multiply rapidly, endangering core, established human rights norms. This is particularly true for the Geneva Convention and the Additional Protocols and human rights norms protected in the International Covenant on Civil and Political Rights, given the core provisions that protect civilian life in the context of conflict.

As we have seen, the Obama administration sought to step away somewhat from the Bush era's 'war on terror' frame to one of law enforcement and the rule of law, but what emerged from both the Koh and Holder speeches in previous chapters was an odd and uncomfortable marriage of these two distinct legal regimes – that of law enforcement and that of armed conflict – leaving many grey and contested areas of norms in their wake. This has practical implications for human rights norms, as proportionality is key and extremely specific in law enforcement terms. As Alston's (2010) report was shown to make clear above, it is unlikely that the use of drones outside of the context of armed conflict for targeted killing could ever be regarded as legal. Even in circumstances where it may be legal in the context of active hostilities, the 'imminence' threshold that triggers a proper self-defence response by a state to render a targeted killing legal is an extremely high barrier to surmount, as we saw when the current Special Rapporteur on extrajudicial killing, Agnes Callamard, stated that this drone strike-targeted killing was unlawful.

This has deep implications for all drone policies, including future uses of drones for law enforcement and migration control. Given that international human rights law applies in all circumstances outside the situation of armed conflict, this poses exceedingly high norm-based hurdles to surmount to satisfy existing internalised and institutionalised norms. For this reason, we see United States norm entrepreneurship take aim at these norms and it is exactly why the United Nations, through its Special Rapporteur reports analysed above, mounted a spirited response that strongly and robustly launched a highly legalistic and technical defence of existing norms. We see this clearly in the tempered, clear and highly legalistic language chosen to shield existing norms from regression, and the resistance of 'us' and 'them' relational polarisation that would undermine human rights fundamentally. Aronsson (2014) also focuses on the powerful implications for the law on the use of force in the arguments that the United States is presenting as part of its justificatory norm contestation and norm entrepreneurship, as perhaps the most important issue – far more important than the actual legality of the drone strikes themselves. She argues that the alteration to international law that could follow if other members of the international community were to follow the United States' lead could be devastating for global peace and security. Such an erosion of crucial rules and norms of international law would profoundly endanger international peace and security and could pave the way for devastating great-power conflict. These questions are significantly important, as the norm contestations they represent are also very clearly counted in civilian lives lost and the violation of the right to life in unaccountable ways. As Woods (2014) has shown, assertions by key United States policymakers, primarily and infamously former CIA head John Brennan, that there no civilian deaths are associated with drone strikes, cannot be sustained. There is a clear need, as Zenko (2013) has articulated, for proper transparency

about civilian deaths due to drone strikes. Following some of the stinging rebukes by the United Nations Special Rapporteurs for what has been called the accountability void regarding the real impact of drone strikes on civilian life, such transparency itself being an international law requirement, the Obama administration made an Executive Order to ensure such transparency on an annual basis, which appears to have been countermanded by the practices of the Trump administration.

Warrior (2015) makes the important point that the pressures on human rights norms also have an effect in the realm of civil-military relations within the United States itself, as drones and targeted killing have very real costs – both for the operators who deploy them and for the internal culture of the military – as it increasingly relies on drones to execute its missions. She argues that one of the crucial challenges confronted by governments is to ensure that drone deployment and use are transparent and accountable enough not to harm the overall well-being of the military and its loyalty to civilian leadership. Given how targeted killing is being bureaucratised, this is not an inappropriate concern, as the expertise to properly comply with the legal complexities of war and war decision-making will always vest in the upper echelons of the military legal fold, as it should, as this is an expertise that lasts beyond the terms of office of civilian leaders. This was also on display in the immediate aftermath of the Suleimani drone strike in early 2020, when tensions appeared to surface between civilian and military leadership.

Newton (2011) foreshadows some of the challenges posed by the rise of robotic warfare, as the Heyns report has done, by arguing that questions of military command and control are crucial to international humanitarian law, as command and control are the very essence of warfare. The history of the evolution of IHL came along with military practice and the demands of honour, valour and military duty long inculcated in and demanded of military officers. These are all areas in which the changes brought about by militaries that will rely heavily on robotics will bring many challenges and be mirrored in pressures being placed on IHL by the rise of drone and robotic warfare. In addition, Newton (2011) used his keynote address at the 2010 Sutton Colloquium to argue that both international humanitarian law (IHL) and international human rights law (IHRL) should not be viewed as at odds, but as the defining legal regimes we need to look to for proper standards amidst the rapidly evolving technology of war. According to Newton (2011:603):

To be more precise, these international law regimes are wholly determinative of the best practices and professional norms by which we appropriately apply the evolving technology of drones, or remotely piloted vehicles.

As we have seen in this study from the great efforts made in legitimating drone use through verbal and visual rhetoric to elites and popular culture, there is no question (as the Special Rapporteurs have shown so vividly above) that drone strikes across international sovereign boundaries aimed at fluid transnational non-state actors and organisations pose profound legal questions. These also are context specific, often on a drone strike-by-strike basis. Because of this, the notion of command and the role of the military commander (human military commander) in executing lethal orders is one of the critical bedrocks of international peace and security. It is important to fully grasp that this is exactly what is being challenged as a norm by drone use, and the full prospect of robotic or lethal autonomous warfare and the bureaucratisation of killing in the 21st century. Given the covert nature of the drone programme and the role of the CIA and Pentagon in it, these risks are clear. As we have seen in the discussion of *Eye in the Sky* (2015), *Good Kill* (2014) and *Drone* (2017) in the previous chapter, the role of intelligence structures in the drone pilot command chain and the role of civilian contractors in the 'kill chain' are part of the complications highlighted by the work of Newton (2011) and by the Special Rapporteur reports analysed above, especially the report of Heyns (2013). In fact, Newton (2011:608) goes so far as suggesting that, in order to have clarity about feasibility criteria for drone use and in drone wars, military commanders would benefit from a properly negotiated additional protocol to cater for 'drone warfare', as it is distinctive and requires proper international legal consensus on this new method of war. This we saw vividly when the United States and Iran came close to a war trigger moment due to an Iranian downing of a United States drone in mid-2019. According to Newton (2011:608):

... it may well be time to consider an additional protocol designed to address the residual questions revolving around drone warfare.

Such a new protocol could elaborate crucial issues such as effective warning to civilian populations and the proportionality principle of drone strikes, and some clarity on decision-making about the geographic dimensions of the *jus ad bellum* calculations that inform permissible drone strikes. Given the clear pressure that a broad interpretation of the scope for self-defensive action under Article 51 of the UN Charter and drone strikes have placed on the international system, suggestions for making drone norms far clearer through a so-called Drone Protocol may be contentious, but not at all misplaced, as proliferation and individual state practice may be too risky to the maintenance of international peace and security. The idea that only proper legal clarity that is effectively communicated will bring clarity to modern military professionals who wish to continue to be seen to act with valour using technology is not amiss. According to Newton (2011:614):

In the context of a globalized and interconnected international legal regime, drone warfare is a reality that cuts across the complexities of competing legal theories to inflict very real damage on both enemies and all too often the innocents among whom they hide.

This is exactly what the Special Rapporteur Reports show clearly by constantly bringing these debates back to the human rights fold where they belong, and where all questions of war and peace must ultimately be adjudicated. In this quest, legal clarity may be desirable, rather than a cycle of norm regression and constant perpetual norm contestation. What appears likely, however, is continued contestations until proper new norms are birthed either by state practice or through deliberately built global consensus on the type of drone use that it permissible in pursuit of peace and security. Maass (2015) suggests a more restrictive deployment of drones to ensure that a requisite balance is struck between what is politically palatable and sustainable, and what is utterly crucial for the purposes of security and counterterrorism strategy. He calls for proper statecraft to ensure that drone deployments do not undermine broader strategic foreign policy positions – an argument also made by Zenko (2013).

Kessing (2015) emphasises the different views on the legality of armed drones between the United States and one of its key allies, the European Union, and shows how not only the Special Rapporteurs of the United Nations, but also Amnesty International and Human Rights Watch, considered their use a violation of international law and have expressly shown how they imperil human rights norms in areas outside active hostilities. Martin (2015) embarks on a fascinating exploration of drone strikes within Afghanistan (clearly a traditionally defined armed conflict) to focus on trying to understand whether it is the drones themselves (i.e. the means) or the manner of their use (i.e. the methods) that is at issue in contributing to the pressure we see them exerting on international norms, and specifically IHRL and IHL. He argues strongly that, as a new aerial weapons system, it is more capable in terms of its technical build and specifications of compliance with IHL and IHRL in theory, but proceeds to show how it is the policies that govern their use, and drone operations more generally, that make violations of international law more likely. Some of these drone-use policies include the use of ‘crowd killing’ and targeting decisions that allow such ‘signature strikes’. He therefore concludes that it is a potent combination of the means and methods that exerts significant pressure on norms and that results in violations of international law. According to Martin (2015:174-175):

Paradoxically, the very features that are most likely to make the drone compliant with international humanitarian law – its ability to linger undetected for protracted periods over potential targets, feeding intelligence back to an operations team that can make

targeting decision in a relatively stress-free environment – may facilitate targeting errors caused by misperception and misinterpretation of the target data.

These are the very issues that lie at the base of the concern raised by the UN Special Rapporteurs and were made vivid by Ben Emerson's interim and final (2013 and 2014) reports. Quigley (2014) argues that the Obama administration's drone strike policies have caused such resentment that their costs in terms of exacerbating acts of violence against American lives and American interests have far outweighed any merit they may have regarding tactical, operational or strategic value. He argues that the blowback from the drone campaign has been far worse than its beneficial consequences. The widening of the use-of-force provisions of the United Nations Charter and how these have been articulated by United States policymakers and critiqued by the UN Special Rapporteur on human rights and counterterrorism is an emerging legal framework that raises core questions, such as how the continued applicability of self-defence is achieved after it has been invoked and must be extended for the full length of a particular case of the use of force. Other questions include how far 'Al-Qaeda' as a category can be extended for the purpose of seeing different denominations of this non-state actor as responsible for the kind of imminent threats that require immediate countering. Indeed, the very question of an 'imminent threat' and how such 'imminence' is to be adjudicated to justify a self-defence *jus ad bellum* trigger is crucial. Individuals could therefore be targeted in perpetuity for as long as there is no evidence that they have ceased activities seen as a threat to the United States. These policies, and the questions they raise, pose enormous problems for internalised and institutionalised human rights norms that are now deeply challenged. We must remember that drones are technologies of power. They are Foucauldian biopolitics made real and can alter life substantially and materially. They are the first weapons system that is a de facto fusion of human labour (that of drone pilots, analysts, etc.) and technical objects and processes (data, data analysis, the Gorgon-stare), and a precursor of what lethal autonomous weapons will have in store for human life and human rights in the future, and the pressures these evolutions will bring to bear.

According to Hajjar (2017), we have seen officials trying to reinterpret IHRL and IHL in a manner that departs from its core principles and precepts and globally accepted and internalised understanding and norms to seek to legitimise and 'legalise' the actual practices of certain states that would otherwise patently be violations of international law. The Special Rapporteur reports analysed in this chapter seek to make short shrift of these legal advocacy efforts to state the clear, existing legal positions strongly, unambiguously and decisively in order to strip away the veneer of 'legalisation' sought by the verbal and visual rhetoric we have analysed thus far. In a norm life cycle sense, the Special Rapporteur reports stand as a clear beacon against justificatory norm contestation and norm regression, and can be said to act as

a powerful shield to protect existing, long-standing internalised and institutionalised 'humanity law' and the use-of-force prescripts contained in the UN Charter.

Alli (2017) looks at discrepancies between civilian casualty counts of drone strikes released by the United States and the Obama administration covering the period from 2009 to 31 December 2015, with figures of civilian deaths between 64 and 116 from 473 strikes that killed between 2 372 and 2 581 terrorist 'combatants', with much higher figures compiled by Human Rights Watch, investigative journalists, Stanford Law School and the Law School of New York University in their report, *Living Under Drones* (2012). Accordingly, he notes that crucial actors such as the European Union do not have an official foreign policy position on United States armed drone strike policies. He posits that this may be because the European Union has a clear commitment to putting human rights and international law at the cornerstone of its foreign policy, and the fact that United States drone strikes violate these very guiding principles, which creates complications. As we have seen in the work of Brookman-Byrne (2017), armed conflict and the higher levels of force it allows due to the operationalisation of IHL are exceptional and cannot be allowed to be merely a glib norm serving the application of IHL to situations where the United States uses drones in order to escape more stringent IHRL requirements. The United States' use of drone strikes 'outside areas of active hostilities' cannot be said to have a normative content in law. These are all elements of the United States' justificatory norm contestation to legitimise drone strikes and to downplay the serious norm regression of core human rights norms they engage. These are clear tensions between the drone-use policies United States and the European Union, which will be an important area to watch and research, as European Union states themselves may also embrace greater use of armed drones and engage in similar norm-contestation complexities as global norms come under ever-greater pressure amidst rising global tensions. Di Lellio and Castano (2010:1-3) have shown us that IHL stands as a normative guardian against processes of norm regression and moral disengagement that tempt politicians and policymakers to avert their gaze from civilian deaths. Despite varied norm entrepreneurship by the United States and Israel and their activist efforts to modify norms such as torture and notions of definition of 'enemy combatants', such new norm internalisation failed to take place due to the robust defences of existing international norms that are continuously being contested anew. However, as we have seen from the formidable wall of tempered, clear legal rhetoric that opposes such contestations across three Special Rapporteur reports and the Special Rapporteur's condemnation of the Suleimani strike in early 2020 as a breach of international norms, efforts are constantly made to suppress norm entrepreneurship that threatens existing internalised and institutionalised norms. At the time of writing, such contestations were ongoing, especially in the aftermath of the Suleimani strike by the Trump administration.

This is in the aftermath of the Emmerson report (2014), which concluded that both the United States and Israel must take better steps and make proper efforts to comply with IHRL and IHL when using their drones. Emmerson called the bluff of the norm entrepreneurs on the questions of distinction and proportionality of targeted killing, and the trump card of IHL. According to Di Lellio and Castano (2016:12), states ought to probe legal violations and the deaths of any civilians:

... Emmerson's report asks for better clarification of the thorny legal issues raised by the use of drones such as a definition of self-defense and prevention, as well as the 'global war on terror' and the notion of direct participation of hostilities.

In addition, it is noteworthy that eleven human rights and civil rights organisations united to send a letter on targeted killing and drone usage to the United Nations Human Rights Council on 18 September 2014. This added significant pressure for resistance to the United States and others' justificatory norm contestations of Article 51 of the UN Charter and IHL and IHRL through their drone usage. McDonnell (2014:286) also emphasises how UN Special Rapporteur Philip Alston resisted the robust self-defence advocacy emanating from United States norm entrepreneurship. In Alston's (2010) report, he shows that the self-defence question arises at the start of an armed conflict, at the *jus ad bellum* stage of just war theory, and that the law that applies during conflict is *jus in bello*, inspired by different proportionality rules applicable to each and different principles of necessity at stake, as well in each of the different legs of the just-war tradition. He also shows how state and individual responsibility therefore would differ depending on whether there is a violation of the law of self-defence or a violation of IHL. He shows how states that violate the law of self-defence would be liable for reparations, and that states and military commanders who transgress IHL potentially would be guilty of war crimes under the Rome Statute. Alston's report (2010) shows that targeted killing with drone strikes falls within *jus in bello* (and not *jus ad bellum*), as drone strikes are a tactic of war – a method used to conduct warfare. This is a distinction that really matters to our understanding of how and where drone strikes put human rights (and IHRL and IHL) under pressure – in terms of *jus in bello* – and where they place the UN Charter's provisions in Article 51 on the use of force under pressure – in terms of *jus ad bellum*. Alston's (2010) report shows that, for a targeted killing to be lawful in the context of armed conflict, it must comply with IHL (*jus in bello*) and with IHRL. In all instances other than armed conflict, it must comply with IHRL and the right-to-life prescripts, which are also pointed out by the Heyns (2013) report. McDonnell (2014:315) reminds us vividly that drone usage raises the stakes:

The ease of using drones and the lack of danger to the attackers increases the likelihood of using attack drones more than ever before and in areas far from armed conflict, thereby eroding humanitarian law and human rights law.

As we have seen in previous chapters, the Obama administration sought to use legal normative discourses and principles of just-war theory to legitimate drone strikes. What we see clearly in this chapter is a formidable legalistic counter to such efforts in the work of three UN Special Rapporteurs, who stated the law unambiguously and sought to speak directly to United States norm entrepreneurship and its rhetorical efforts to portray drones as legal, ethical and wise. Even reports that did not address the United States by name, such as the Heyns (2013) report, still stand as a beacon of protection of the right to life. In an important thesis in public international law, on which this study builds from an international relations perspective, Lewis (2015) deals extensively with the effect of the United States' drone policies on *jus ad bellum* and *jus in bello* considerations. He crystallises the various approaches to the critical questions of concurrent applicability of human rights and armed conflict intellectual paradigms in the context of drone strikes. He shows how an interpretation that lethal force can be used in any armed conflict context – similar to the one applied by the United States under the broad AUMF provisions – allows states to assert that specific individuals are not mere civilians and that they can then be targeted expressly. This is what we see clearly in the speeches in the previous chapters that assert this right to allow broader targeting rules of IHL in the fight against Al-Qaeda, the Taliban, and associated forces. As we have seen, such profound justificatory contestations of key norms carry the risk of abuse, as has been evident in the issue of 'crowd killing' or 'signature strikes', in some instances of 'military-aged males'. Such abuses extend the broad interpretations of imminence and how to decide whether someone is guilty of 'direct participation in hostilities', which has been interpreted very broadly.

Application of pure IHRL, however, would render nearly all lethal drone strikes, barring extreme exceptions, illegal. It appears that some form of clarity will be required urgently within the international community more broadly to avert the constant lack of clarity, norm regression and norm contestation. Some core principles of human rights law must be adhered to in the context of an armed conflict, lest all war – irrespective of weapons systems – were to degenerate into perpetual war crimes in environments of absolute war in Clausewitzian terms. International human rights law (IHRL) places restrictions on the use of direct lethal force for sound reasons of principle and law, and IHL permits instances of the application of lethal force in terms of the laws of armed conflict (LOAC), equally for sound reasons. Lewis (2015:159) makes an impassioned plea for the development of coherence and for allowing pragmatism and the application of human rights and laws of armed conflict paradigms in contexts of armed conflict. This is a dramatic idea with wide-ranging consequences. One could argue that some

areas within IHL itself lack clarity, and that this has created some scope for the type of norm contestation we have witnessed. Where civilians participate in active hostilities, for example, this poses questions of whether IHL applies. It also requires in a mandatory form whether capture or detention must be considered as an alternative to targeted killing, or whether such civilians may properly be targeted lethally as they actually surrendered their civilian protections by becoming engaged in hostilities themselves. There are many ancillary legal technical questions that arise under areas of IHL that are potentially open to contestation. Lewis (2015) calls attention to the practical reality that United States drone policies target Al-Qaeda, the Taliban and associated forces in a global conflict, in which they are 'unlawful combatants' without any IHL protections. According to Lewis (2015:160), this has:

... highlighted the risk of a situation being brought about where the United States can wilfully disregard its obligations under both paradigms. Such a disdain for the fundamental principles of human rights and humanitarian law must be discouraged and condemned.

This is exactly what the Alston, Emmerson and Heyns reports analysed in this chapter have done by unmasking the detailed aspects of the way United States justificatory norm contestation of drone strike policies have challenged core tenets of international law. Lewis (2015:163) also points to the fact that the issue with drones is less with the weapon system itself, and more with the policies that inform its use and how such use has challenged existing internalised and institutionalised norms. As we have seen above, UN Special Rapporteur Heyns (2013) challenged any notion that we can use *jus ad bellum* rules of self-defence in any manner that does away with the requirement that an individual simply must pose an imminent threat before he/she can be targeted lethally in an act of self-defence. This is the issue on which the current UN Special Rapporteur condemned the Suleimani killing as against international norms. As the Heyns (2013) report made clear, past involvement in attacks or planning attacks would not be an adequate basis for a strike, and when there is no evidence of specific or imminent attack, such lethal action taken distorts the requirements of IHL.

The 'imminent' attack self-defence requirements have been very broadly defined and interpreted by the United States. Lewis (2015:164) notes how reluctant the United States has been to accept that IHL applies to its targeted killing operations, and how it persistently contends that IHL has been supplanted by the law of armed conflict in situations of armed conflict. It also maintains that IHL does not have extraterritorial application and does not apply to its actions outside of the United States' own territory. These are profoundly contentious notions, as the International Court of Justice has made clear in jurisprudence, and the UN Special Rapporteurs have made clear in their various reports. For example, as we

have seen, UN Special Rapporteur Emmerson (2014) argued that it is only in exceptional circumstances that it is permissible under IHRL for killing to be the purpose of an operation. Drone strikes can therefore rarely be said to follow IHRL and the prohibition of arbitrary deprivation of life. Lewis (2015:165) expressly laments the United States' denial that IHRL applies to its targeted killing programme. According to Lewis (2015:165):

For as long as this remains the case, many commentators and human rights organisations will continue to view drone strikes as being of dubious legality and as a sophisticated means of extra-judicial execution.

This is exactly what is borne out by the three UN Special Rapporteur reports analysed here. As this chapter has shown, the civilian deaths that emanate from United States drone strikes have been rebuked strongly in all three UN Special Rapporteur reports (Allston, Emmerson and Heyns) included in this analysis following Fairclough's three-dimensional analysis of four themes where we looked expressly at how these three reports have looked at framing civilian deaths from drone strikes. These UN Special Rapporteur reports drew attention to many flawed aspects of drone policies, including the heavy reliance on faulty intelligence and intelligence analysis that can result in unnecessary civilian deaths. According to Lewis (2015:169):

Each Rapporteur has expressed concern that the United States places reliance on inaccurate information from paid informants, that positive identification procedures are weak and ineffective, and that there remains a lack of independent post-strike reviews.

It is important to reiterate that the continued covert nature of the United States' drone programme makes proper accountability through the legislative and judicial branches of the *trias politica* in America exceedingly difficult, if not nearly impossible. This has grave implications for other branches of government that may wish to engage in a dialogue on the merits or demerits of executive-led targeted killing practices. Importantly, UN Special Rapporteur Heyns (2013) called for a comprehensive review of the means and methods of targeted killing by the international community. In the wake of the Suleimani strike, this is now more important than before. UN Special Rapporteur Alston also raised the legitimate concern that United States practices were wreaking havoc across legal and normative frameworks of international law aimed at protecting the right to life. Both the Alston and Heyns reports raise concerns about what such precedent-setting activities and actions may imply for global peace, security and stability going forward. These are the pertinent questions for this study on norm life cycles.

Alston's report presages the global chaos that would result if other states used the United States' ideas of forever war without territorial borders, where targeted killing can be practised

at will. Jose (2017) shows us how it was not only the various UN Special Rapporteurs who voiced their opposition to the United States' justificatory norm contestation efforts seeking to supplant existing norms with a new targeted-killing norm. She argues cogently that Human Rights Watch was deeply set against any 'new normal' being set as far as targeted killing is concerned and notes how they worked tirelessly to actively suppress such a new norm emerging from any contestations following the death of bin Laden. Her study breaks new ground not only in dealing with how we fight the emergence of 'bad' norms, but also in showing how actions by activist that have transnational networks can push back against the norm entrepreneurship of United Nations member states. It also shows how this dance between Human Rights Watch and the Obama administration opened up after the killing of bin Laden created a strong opening for global norm entrepreneurship. This United States norm entrepreneurship did not only wash away long domestic views against assassinations, but also entailed entrepreneurship advocating for drone strike practices and policies on targeted killing as part of counterterrorism operations to be acceptable. Jose (2017:238) therefore introduces the concept of 'norm suppression' as an active ingredient in drone debates and discourses, and as a leg of norm contestation. This deserves our attention, as it is exactly what we see in the work of the UN Special Rapporteurs and powerfully links back to our theoretical framework in Chapter 2. According to Jose (2017:238):

... this discussion illustrates how norm suppressors attempt to minimise the potentially destabilising effects an emerging norm may have if it collides with deeply entrenched global norms.

The above is exactly what happened and Human Rights Watch has left an extensive communication trail – including a flurry of letters to Obama-era officials seeking confirmation of their targeted killing with UAVs – in its efforts to suppress a new targeted killing norm. They can claim some successes, even though at best they did not stop a new norm contestation completely, as it remains ongoing, as we see in the Suleimani strike in early 2020. Norm activism (or norm entrepreneurship) and norm suppression are the two highly active legs of norm contestation. In a certain sense, the actions of both the various UN Special Rapporteurs and Human Rights Watch worked as norm suppressors, as they focus on maintaining intersubjective agreements on the status quo (the existing Article 51 of the UN Charter and existing provisions of IHRL and IHL), whilst the policy and norm entrepreneurship of the United States was focused on changing intersubjective agreement in order to enable new ideas and a 'new normal' of targeted killing practices to emerge in the wake of bin Laden's death. Therefore, it can be argued that, despite considerable efforts made using both verbal and visual rhetoric to engage in justificatory norm contestation, the United States may have failed as a norm entrepreneur to generate intersubjective agreement on a new practice of targeted

killing. We see that Human Rights Watch, a formidable, transnational policy actor in the human rights community, worked hard to actively suppress the 'new normal' of targeted killing from becoming exactly that. They sought to ensure a continued intersubjective agreement globally on the core global precepts of 'humanity law'. This does not suggest that we do not see a continued norm contestation and conflict between entrepreneurs and suppressors, as part of global drone discourses and debates about the legality of targeted killing and norm clashes and contestations about these issues. This is ongoing, but as Jose (2017:251) argues, Human Rights Watch accepted that a new norm may be emerging, but fought actively to air its wings, pare it back and suppress it. According to Jose (2017:251):

Accepting that a targeted killing norm may emerge, Human Rights Watch has concentrated on ensuring it requires transparency and accountability and prioritises civilians.

Human Rights Watch expressly tried to end the CIA's involvement in targeted killing through explicit letters to President Obama and the United States' closest ally, the United Kingdom, which actively engages in deep-level intelligence-sharing. In an opinion piece in 2013, Human Rights Watch Director Ken Roth wrote critically about 'crowd killing'/'signature strikes' being a clear violation of IHL. Also in 2013, he launched a scathing attack on the United States' continued use of the concept of an 'armed conflict' against Al-Qaeda, more than a decade after the initial attacks that triggered the AUMF. These opinion pieces were followed by various appearances before United States Senate committees that same year, during which he robustly repeated these arguments. One of Human Rights Watch's key efforts, like that of UN Special Rapporteur Heyns analysed above, was the consistent and persistent argument that IHRL applies to targeted killing and that this places greater constraints on the use of force than IHL. Human Rights Watch was an active member of the anti-targeted-killing network, along with Amnesty International, the American Civil Liberties Union, the Center for Civilians in Conflict and Human Rights First. In fact, Human Rights Watch's activism around the rule of law and transparency contributed in no small measure to the United States' release of civilian death statistics and President Obama's Executive Order requiring such annual reports before leaving office in 2016. This was revoked by a new Executive Order by President Trump in 2019, that now once more precludes data about civilian death statistics in non-armed conflicts from being released publicly. As we therefore see, the norm entrepreneurship–norm suppressor dynamic is an active part of the norm contestation highlighted in this study and that is ongoing, with unpredictable outcomes. What we have clearly seen in this chapter is how the UN Special Rapporteurs and the international human rights community (especially Human Rights Watch) acted as norm suppressors to create a countervailing force to

counteract the United States' justificatory norm contestation of Article 51 of the UN Charter, IHRL and IHL through the use of force expansions using drone strikes for targeted killing.

6.4 The United Nations and the 'Good' Drone: A New Discourse and New Norm Pressures?

In 2013, the same year that President Barack Obama delivered his key drone policy speech at the National Defense University, the United Nations launched its first 'spy drone' or 'surveillance drone' as part of the robust peace-enforcement mandate of the MONUSCO UN Mission in the Eastern DRC. This drone, a Falco drone with a host of high-resolution sensors, according to Nichols (2013), was unveiled at an airport by UN Under Secretary General Herve Ladsous and head of DPKO. In his speech at the launch, Ladsous (2013) described the UN's UAV as: "... an essential instrument ... to observe armed groups and also to keep watch over civilians who are displaced or on the run due to conflict".

This drone use would rapidly spread to UN missions in South Sudan and Mali and birth a new discourse narrative strand on drone usage, namely the 'good' drone or 'humanitarian' drone narrative strand. Showing clear awareness and probing this narrative strand in an analysis of drone discourses is an important component of any study setting out to probe the evolution of drone discourses. This is because different narrative strands are both being birthed and actively lobbied for by different interests and interest groups in civil society. We will look at what the use of these spies in the sky may mean for UN operations more broadly and what this could signify for the norms that the international community may be setting for peacekeeping. This use of drones was sanctioned in careful wording by the United Nations Security Council in January 2013, making it clear that the usage would not and should not be a new precedent for UN peacekeeping. However, it rapidly became exactly that, as we shall see under closer scrutiny in this chapter.

The Security Council's approval was secured, despite significant opposition from Rwanda to being used as a "laboratory for foreign intelligence devices", according to Smith (2013). These concerns about intelligence gathering often arise as far as discourses about the use of drones in peacekeeping are concerned. It also gives us a glimpse of geopolitical tensions and new norms, as important Security Council states such as Russia have repeatedly voiced concern about the rise of the 'good' drone discourse and concerns about its motives. Such tensions are profoundly relevant in spaces where norm contestation is active and part of the life cycle process of new norms for drones.

The first surveillance drones formed an important part of the focus on the protection of civilians, which is a core focus of the contested constructivist concept of human security. This may be problematic, as we shall see, due to the distance factor that drone views can introduce.

As Conteh-Morgan (2005:84) reminds us, for peacebuilding to work we need to bridge the gaps that create distance between such missions and local populations.

Such distant drone usage should also be followed by significant soul-searching within the UN about the impact of technology on UN peacekeeping operations. In 2014, the Secretary General launched the work of an expert panel on the topic. Their final report (*Performance Peacekeeping: Final Report of the Expert Panel on Technology and Innovation in UN Peacekeeping*) was released on 20 February 2015 (UN DPKO, 2015). This is a crucial moment in the rise of the 'good' drone or 'humanitarian' drone narrative and is an indispensable part of it. Indeed, the Panel critically concluded and recommended that the United Nations should expand its medium-altitude, long-endurance UAV operations to other missions. This is indeed what happened, as we shall see in Mali and the DRC.

It is important once more to consider the context of the rise of the 'good' drone or 'humanitarian' drone discourse strand. We need to recall that the use of drones in the context of the evolution of the responsibility to protect doctrine took place within the UN system, where the very doctrine of R2P is itself also a contested constructivist concept. This already contested concept must contend with and be balanced by a world environment in which drone discourses should take cognisance of the rise of data across all spheres of human existence. The arena of UN peacekeeping is no different. Data management and availability, the effect of technology on fuelling the 'good' drone narrative strand as part of humanitarian intervention, and the responsibility to protect doctrine must not be overlooked in this study whilst not being the primary focus of the critical discourse analysis given the newness of this strand of narrative compared to the narrative strand of targeted killing for which drones have been primarily used to date.

As we flag the issues of drone usage for peace and various civilian uses in a COVID-19-ridden world, it is crucial to take note of Newman's (2001:246) cautionary reminder that there are also tensions between interventionist instincts and human rights norms: "The assertive/interventionist model of human security, with its association with humanitarian intervention, is most obviously in tension with the norm of state sovereignty and communitarian notions of nation-building and human rights." It is within this complex space that we see a far greater confluence of different actors, embracing civil society and even private individuals and, latterly, data experts who have a growing interest in humanitarian intervention and human security.

This confluence of factors has seen an entire new generation of humanitarians using technology, big data and algorithms for humanitarian relief missions. Whilst this has largely happened in contexts of natural disasters, we shall see that their work has spilled over and

will continue to do so in the work of the different sections of the UN system. This has already and will continue to affect drone discourses inside and outside of the United Nations context.

Meier (2015) meticulously tracks the work of this new generation of ‘digital humanitarians’ in an important study. As Enzo Bollettino, the Executive Director of Harvard’s Humanitarian Initiative points out in his foreword to Meier’s excellent contribution to highlighting the nexus between data and humanitarian work, the amount of imagery made available by satellites and unmanned vehicles (UAVs/drones) creates significant room for humanitarian relief efforts, responsibility to protect (R2P) missions and robust peacekeeping mandates to leverage technology for humanitarian use and work.

UAVs and drones, which often are cheap to use, are important instruments in humanitarian relief. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA of the UN) has already used drones (DJI Quadcopters) extensively for humanitarian relief. As Meier (2015:18) observes from a positive point of view: “Technology need not be dehumanising. As technologies can extend and amplify our humanity, can translate out initial private emotions of sadness and powerlessness into public – indeed global – action to help others thousands of miles away.”

This Digital Humanitarian Network has become ever more important as a nexus between humanitarian organisations and the growing number of digital volunteer networks. Building on the work of renowned Kenyan civil society data crunchers Ushahidi (rightly made famous by their crisis maps of electoral violence in Kenya in 2007), these digital humanitarians have also made crisis maps in complex relief mission such as in Haiti, Libya and the Philippines.

As humanitarian organisations do not own and deploy their own satellites, drones have become an important instrument to fill this gap. As automated analysis of UAV imagery is a core challenge, the treatment of aerial imagery as a ‘big data’ problem has created both opportunity and controversy.

This will continue to be the case as drone discourses widen and deepen in coming years. As a South African researcher, it is of interest to note, for the purposes of this study, that the work of Tom Snitch in protecting endangered rhinos in South Africa from effective low-intensity conflict assisted in creating a pattern-recognition algorithm that will play a big role in the automated analysis of UAV imagery and debates about its use.

As noted above, the activities of the United Nations Secretary General, DPKO and the Department of Field Support (DFS), which works closely with DPKO, resulted in the Expert Panel report entitled *Performance Peacekeeping* (UN DPKO, 2014). The release of this report, and its section on the use of UAVs or drones in peace missions, represents in and of itself an

important instance of norm entrepreneurship within the UN system, as it sought to bring advanced technology applications into the global peacekeeping fold and to move peacekeeping into the 21st century.

The Performance Peacekeeping Panel (UN DPKO, 2014) conceded that it had a two-fold approach:

First, we offer observations and recommendations designed to achieve immediate impact. Second, we have taken a slightly longer view and make recommendations regarding how UN Peacekeeping can evolve to become a learning enterprise that seeks out and applies new technologies and innovations on a continuous basis, thereby enabling it to be prepared for the future.

In this chapter we therefore ask whether UAVs or drones are the new blue helmets and whether we will live in a world where they will be seen, despite their close association with targeted killing and civilian loss of life (as seen in the previous chapter), as ‘Peacekeepers in the Sky’? The use of drones in more robust peace-enforcement mandates, as we have seen in the DRC, South Sudan and Mali, has led some to ask key questions of these new peacekeepers in the sky. It is crucial to note that the UN was deeply sensitive to the image baggage in drone discussions and discourses flowing from the use of armed drones in Afghanistan, Pakistan, Somalia and Yemen.

This led to the reality that the UN chose to emphasise expressly and explicitly that the use of UAVs over North and South Kivu in the DRC would be unarmed and would be surveillance drones that would be flying cameras aimed at improving situational awareness to secure the protection of civilians only. In a study that looks at the use of language, it is necessary to observe that the term ‘situational awareness’ is a key feature of debates on the use of the ‘good’ drone or ‘humanitarian’ drone. This is done in accordance with the Capstone Doctrine, which hallmarks UN peacekeeping and its non-partisan nature and ethos. In the DRC, UAVs were used to quell the M23 rebel group’s rebellion in eastern DRC in a robust peace enforcement mandate some argued crossed the line from UN peacekeeping to the UN engaging in ‘war fighting’. It is interesting to note the similarities between the UN DRC mandate UN SC Resolution and the US Congress’ AUMF. In both these cases, the action-enabling wording was profoundly broad and open to interpretation, which allowed for a host of actions that could push legal frameworks and existing norms. It is an abject lesson in just how much language does matter.

As Apuuli (2014:2) notes, one of the crucial challenges the UN system faces is how to manage and control the drone data if UAVs are to be properly integrated into UN peacekeeping. Questions about information gathered by drone feeds include who ought to have access to

such livestream video data and who ought to have access to only recorded video data. Given the geopolitical tensions that shape the space for norm formation, these questions matter a great deal and are of critical importance, as technology is integrated with norms that govern global war and peace. This is ever more challenging, despite data management standards that the UN may adopt, given that what we are essentially dealing with is intelligence-sensitive information that could raise geopolitical tensions and lead to deeper friction in the international system if poorly managed. It therefore perhaps is not surprising that, as was the case for the study's chapters on the US President as a norm-setter on drones, many of the questions the UN DPKO and DFS face on drone usage in peacekeeping are of a similar moral, legal and ethical nature and not susceptible to easy answers or easy trade-offs, despite the rise of digital humanitarians. Much of the pressure on human rights norms and existing practices such as the Capstone Doctrine in UN peacekeeping are under pressure in the same manner that we have seen norms being placed under pressure by the rise of targeted killing practices, which raise new legal complexities. What seems clear is that the rise of the 'good' drone or humanitarian drone narrative strand has its own implications for norm contestation within the international system, which would require a consideration of risk.

These legal, moral and ethical questions are magnified, as shown in the wording of the two UN Security Council Resolutions on the DRC that permitted drone usage. Some of the questions that arise include whether it is legal for non-military personnel to operate drones in a combat zone. The use of contractors to fly drones raises questions about 'distinction' under the laws of armed conflict, as it blurs lines between civilians and combatants. These operators are taking an active part in hostilities and are subsequently open to being attacked and possibly killed. A further question that arises is whether UAV use increases risks for civilians under the 'precautionary principles' of the Protocols and Geneva Conventions. Despite these profound and profoundly important questions, Apuuli (2014:3) comes to the conclusion that drones matter to peacekeeping and that they are crucial to the flexibility needed by the peace machinery of the international community in the 21st century. This implies that the UN simply must adapt its missions by taking cognisance of technology.

In an important contribution, Dorn and Webb (2017) note how the UN was explicit in circumventing the controversy about 'drones' associated with drone discourses and targeted killing by expressly ensuring that the UN headquarters referred to the drones to be used in the DRC as unarmed unmanned aerial vehicles (UUAVs). As this study has shown, language matters greatly and, by creating a 'UN-friendly' term, its choice shows the UN deliberately opting for a term that emphasises the surveillance functions of drones, to contrast them with the armed versions and their morally contested baggage relating to the 'war on terror'. We shall see how this becomes more complex in the case of Mali, where different drones are

overhead (both armed and unarmed). This is because Mali is a complex space where counterterrorism measures and robust peacekeeping measures are in play simultaneously, challenging some of these neat distinctions drawn in principled and policy terms. Dorn and Webb (2017:413) note that peacekeeping has changed and that the UN DPKO missions require more robust peacekeeping forces to keep track of their new mandates:

The nature of peacekeeping has changed, and the UN needed to meet the new challenges. In DRC, the Security Council provided the mission with a mandate for 'offensive operations' to 'neutralise' illegal armed groups, including those that terrorized the local population.

Their work emphasises that the UN had to grapple with how this changing nature of peacekeeping increased the need for intelligence, and the kind of intelligence that can be gathered by sophisticated tools such as UAVs. The notion of intelligence has always been controversial in the UN context, as we shall see, and the UN has taken many steps to revolutionise its data management and the management of the new information systems it has at its disposal due to the use of UAVs (Dorn & Webb, 2017:413). As the UN mission evolved from the monitoring of a ceasefire to one of peace enforcement against local militias, we see this reflected in the two resolutions on the DRC of the UN Security Council (SC). This change marked a decidedly more offensive course of action for the UN and, as such, there is some controversy associated with MONUSCO's mandate as a new mould for peacekeeping.

Constructivist analytical lenses ensure that we are interested in pursuing the evolution of the protection of civilians as a core part of reviews of how UN missions fare in this objective and, latterly, how the use of force is emerging as a factor in the protection of civilians in UN peacekeeping. It is in this regard that UUAV usage, and possible future armed UAV usage, become important. This is the reason why we focus increasingly on the more robust peace-enforcement mandates we see emerging in UN missions, such as the one in the DRC, which enlisted UUAVs and a Force Intervention Brigade (FIB) for this purpose. These aspects open new and important vistas and controversies for grappling with and understanding drone discourses and the agitation we see post-2013 for the 'humanitarian' drone or 'good' drone enlisted as an important tool in the protection of civilian lives.

Interestingly, it is the exact flip-side of the coin of the argument that saw armed UAVs implicated in drone discourses about the loss of civilian life and the lack of compliance with international legal frameworks in the targeted killing programme within the War on Terror envelope. These elements we have seen in previous chapters of this critical discourse analysis. It therefore is fundamentally interesting to see such a deliberate, and lobbied, inversion of the worst critiques of drones – from emphasising the killing of civilians to the

protection of civilians. This has now become a virtuous feature of drones – to protect civilians. This conception and *de facto* inversion – away from targeted killing to protecting lives – poses rhetorical challenges that have not yet been addressed to the same extent as the legitimization of drone use for targeted killing has been. It is important to observe this fact in a study focused on how speech acts seek to influence the life cycle of norms, whether in war or peace.

The protection of civilians is a crucial norm of UN peacekeeping, but most member states have shied away from the use of force in peacekeeping operations, even though most peacekeeping mandates expressly provide for it. It is important to note parallels with debates on the right to preventive and pre-emptive self-defence against imminent threats, and the role of the norm of the protection of civilians from the imminent threat of physical violence in UN peacekeeping, where the use of force is the last resort for peacekeeping where the aim is the protection of civilian life. All this has implications for debates on the use of drones in peacekeeping, where the private sector is increasingly a critical player, thus adding to the layers of complexity and the challenges to norms.

Dorn (2016) introduces us to the new UN peacekeeping concept of technology-contributing countries (TechCCs), which is taking on a new role side-by-side with conventional concepts in the field such as troop-contributing countries (TCCs). We now find ourselves in a world where monitoring technologies can create ‘digital peacekeepers’, and the UN peacekeeping ethos has extensive and intensive information needs that are complemented by surveillance drones. There can be little doubt that the use of drones under new UN peacekeeping mandates is here to stay as a crucial part of the ‘proof of concept’ kind of in-the-field testing, which now also hallmarks partnerships for technology usage in peacekeeping by the UN (Dorn, 2016:2).

In this arena, remotely piloted aircraft or UAVs provide new platforms for both cameras and, controversially if armed, missiles. These forms an important part of modern peacekeeping and technology debates and hence of drone discourses themselves, which are embedded in discourses on human security, 2P, the Capstone Doctrine of UN peacekeeping and the deep non-partisan ethos of the institution.

As the *Performance Peacekeeping* report (UN DPKO, 2014:4) points out:

... technologies can greatly assist with civilian protection and, indeed, the entire range of peacekeeping mandates ... it should be possible to have a revolution in peacekeeping affairs that parallels (and piggybacks on) the revolution in military affairs.

Given some of what we have already analysed in prior chapters, the commitment of the United States, voiced by then President Barack Obama at the Leaders’ Summit on UN Peacekeeping

at UN Headquarters in September 2015, is significant. He undertook that his country would be a key technology-contributing country (TechCC). This undertaking to contribute by identifying ‘state-of-the-art’ technology for the UN system and to make it available is noteworthy, as it also embraces drones and UAVs. Given the United States’ unparalleled experience with these systems in various countries, it is an area of US-UN engagement that we can expect to see growth as the use of drones for peacekeeping takes off and becomes more commonplace.

Following their successful use by MONUSCO in the DRC, Dorn (2016) says UAVs are now ‘standard kit’ and have been deployed in Mali and the CAR as part of the UN missions there. In the MONUSCO mission, the UN mandate included ‘offensive operations’ aimed at destroying rebel camps. Members of the Force Intervention Brigade (FIB) were able to use imagery sent from UAVs to mobile hand-held terminals to observe rebel forces and avoid ambushes. But what did the UAVs do other than neutralise rebel groups posing a threat in the Eastern DRC? They checked up on civilians in isolated populations and villages and UN-supplied camps, conducted route reconnaissance for aid convoys and assisted aid agencies. They also assisted local police during operations. Whilst these actions feed the ‘good’ drone or ‘humanitarian’ drone component of drone discourses, we should take care not to conflate ‘humanitarian’ with actions of military forces, as this will have devastating consequences for the global humanitarian community, who could be seen to forfeit their neutrality. There thus are significant risks in this route of action. However, despite these concerns, Dorn (2016:11) reminds us of the use drones can have for the ‘digital peacekeepers’ of tomorrow:

Imagery from sensors on remote platforms such as UAVs, can also be viewed on handheld tablets or smartphones. A mini-UAV can even be carried in a peacekeeper’s backpack and launched by hand to get a view over the next hill (or further) and to help spot any ambushes or navigation hazards.

Dorn’s (2016:12) work is important because it builds a conceptual bridge between much of the background theoretical discussions traversed at the beginning of this study regarding network-centric warfare (NCW) and what we see emerging as ‘net-centric’ peacekeeping (NCP). This new form of peacekeeping will include drones and will make UN operations technologically speaking both smarter and more effective: “It also can allow greater connection to both UN centres and the local population” (Dorn, 2016:12). At the conceptual level, we see the emergence of further concepts, such as ‘precision peacekeeping’, which will rely on ‘actionable intelligence’ to secure the protection of civilians and to honour the normative ethos of peacekeeping, thanks to this new merging of ICT and peacekeeping in an era where we see an increase in UN mandates for the protection of civilians and peace building after war.

These terms highlighted echo what we have seen emerging around precision targeting in drone strikes for targeted killing and the use of actionable intelligence in that arena, along with all its moral baggage. But, as Dorn (2016:12) reminds us, UN missions must be population-centric and focused on the humans on the ground, who are the beneficiaries of such missions, and it is necessary, if not vital, to draw on all forms of multidimensional flows of information about a wide spectrum of threats in order to meet the needs of the local population by fostering peace with network-enabled peacekeeping. Such peacekeeping is population-centric and information hungry.

‘Network-enabled peacekeeping’ is a newly-minted and proposed model that seeks to maximise connectivity and integration across the range of different participants engaged in peacekeeping: ‘This new model is possible because of the widespread adoption of new communication tools, big data, advance analytics, dynamic flows, crowdsourcing, and geo-mapping/GIS’ (Dorn, 2016:13).

Steps undertaken by UN Under Secretary General Ladsous to propel peacekeeping in the 21st century embraced the use of drones in the DRC, the Performance Peacekeeping report and the adoption of a technology and innovation strategy by DPKO and DFS in early 2015. The overall strategy sought to implement the report’s recommendations, and a high-level Steering Group on Technology and Innovation and a Working Group on Technology and Innovation that tracks implementation were created. This is a significant change, as are the new data-management and intelligence-gathering processes by the UN. The emergence of TechCCs (and latterly police-contributing countries (PCCs)) are part of these ongoing developments that will play a role in the evolution of drone discourses in the future. As a leading TechCC, the United States has sought to bring innovations used by the United States military to bear on UN peacekeeping. Where there are positive contributions that may result in the protection of civilians, these ought to be supported broadly as part of possible new global norms aimed at securing the norms of the sanctity of human life enshrined in IHRL and IHL.

The President of the United States and the Secretaries of State and Defense pledged such support in 2015, and some of the technology recommendations for UN DPKO unsurprisingly include the use of UAVs for information-led operations and ‘situational awareness’, and the use of unmanned aerial and ground vehicles for survivability and the protection of forces and civilians (Dorn, 2016:26). We do see some geopolitics present in these developments that require brief mention, as they may affect drone discourses and broader norm contestation and norm formation. In this regard, the United States is playing a key role in seeking the greater involvement of drone technology in peacekeeping, whilst Russia consistently warns of the intelligence risks and dangers this poses.

The institutional forum that must guard against any dominance by a single state is the Special Committee on Peacekeeping, colloquially referred to as the C34 (which initially had 34 members, hence its name, but now has in excess of 120 members). It is a committee in which troop-contributing countries, police-contributing countries and technology-contributing countries congregate. It is the arena where some of the geostrategic tensions on the use of technology in UN operations plays out. We can see this with respect particularly to non-aligned countries and Russia. To cite one example, Russia also wanted the UN Secretariat to seek express UN Security Council approval before deploying drones as part of MONUSCO in the DRC. Some of these tensions and anxieties are also reflected in the operational requirements of UAV deployments, such as the fact that the UAVs in the Eastern DRC require approval from the mission's top official – the special representative of the UN Secretary General – if they were to stray within two nautical miles of the borders of a neighbouring state where a UN mandate is operational in the field.

Portmess and Romaya (2015:5) analyse the *Performance Peacekeeping* report and show how the report's emphasis on the wider deployment of technology (ground and airborne sensors, technical sources of data, and data analytics and integration, as well as intelligence gathering) is indicative of a sea-change in the world of peacekeeping. This is driven by new realities beyond the peacekeeping fold. These changes require a deep rethink of the moral base of peacekeeping in the light of the growth of 'digital peacekeeping', of which drone usage and visual imagery are a part. This also applies to visual imagery analysis and the knowledge revolution triggered by new technology across all fronts of life. It cannot be ignored that the *Performance Peacekeeping* report foreshadows a new world of an "... intelligence-led informationist conception of UN peacekeeping against a backdrop of increasingly complex peacekeeping mandates and precarious security conditions" (Portmess & Romaya, 2015:5).

The UN resolutions that authorise the broadly worded 'all necessary means' as part of the new peacekeeping mandates are brand new terrain for the UN. They are akin to the Koh speech's notion of 'post-9/11 law'. As we have seen in this study, broadly constructed wording, like the AUMF did in the context of the United States Congress, creates considerable room to push the boundaries of existing legal frameworks and international laws.

The defining drone discourses in the peacekeeping field emphasise greater aerial surveillance as a critical part of integrated information systems. As we have seen, those who play up and advocate drone usage in peacekeeping point to the better situational awareness drones can create and how this can lift the proverbial fog of war. Doing so allows vast areas of geographic terrain to be covered and monitored. The deep information collection concerns that arise have been addressed in separate documents and reports of the UN OCHA, which have sought to

probe legal issues and liability concerns, including privacy and data protection laws, ethical procurement questions, and partnerships with private military, security companies and contractors who dominate the UAV industry space. It embraces issues such as the informed consent of local populations and engagement processes to secure such consent. Any one of these issues on their own represents a significant potential risk to successful peacekeeping, as it may increase distance from local populations as much as the drone stare may bring them visually closer. It seems clear that drones for peace raise very complex hurdles, just as drones for lethal targeting have done. The world stands at the mere beginning of these complexities, and contestation about new norms in this arena is set to intensify and geostrategic and geopolitical tensions escalate. These matters are far from resolved on a global scale.

Drone discourses often pivot into binaries. We can see traces of this in the brave new arena where technology meets the fostering of world peace and peacekeeping. Four key binaries that shape the prevailing discourse on surveillance drones and peacekeeping, according to the work of Portmess and Ramaya (2015:20), include:

- The binary between lethal weaponised drones deployed in war-fighting and non-lethal surveillance drones deployed for peace.
- The binary between drones as mere 'adaptive enhancements' of existing UN peacekeeping capacities and drones as completely new ways of seeing and knowing due to their dramatic surveillance capabilities and visual imagery analysis ability this creates beyond borders.
- The binary between drones as morally neutral entities and drones as entities that represent destabilising and imperialistic motives and forces.
- The binary between information as simply a benign functionality and information as part of a regime of intensive and dubious motive surveillance in the name of a humanitarian good, but which obscures the actual political reordering of the conduct of global violence.

This set of four key binaries is like a map that clearly demarcates the boundaries of the norm contestation clash that is taking place on these questions and that will intensify within the global community as geopolitical tension rises and great power conflict once again appears to be a possibility in the 21st century.

Drones for peacekeeping seem morally neutral, but subject entire populations to constant surveillance – an informationist paradigm that constitutes a complete revolution within the context of peacekeeping in and of itself. The omnipresence of drones can also alter the legal plane by giving peacekeepers higher levels of responsibility in terms of their legal precautionary obligations as far as civilians and the protection of civilian life are concerned.

There thus are different sets of normative clashes and norm contestations that would require fully-fledged analysis as the ‘good drone’ narrative becomes delineated more clearly and undoubtedly becomes rhetorically defended and legitimated more actively.

The *Performance Peacekeeping* report (UN DPKO, 2014) deals explicitly with the growing importance of the use of UAVs in peacekeeping missions and seeks to dispel the myth that technology is merely a euphemism used by some member states to introduce the use of drones. This use of drones is seen, particularly by some key geopolitical players in the UN Security Council, as a non-transparent and intrusive technology into mission areas for specific narrow political objectives. It states expressly that it seeks to use UAS/UAVs as an advantageous feature of peacekeeping operations in safety, security, situational awareness, command and control. Furthermore, it states that it is a new and unavoidably indispensable tool for the UN. The report is expressly clear about the ubiquitous use of drones and their availability, despite efforts aimed at regulation. The report urges their use, as they are a technology that no mission should forego, except under some complex political circumstances. The Panel made it clear that their use, and the systems that underpin their use, must be meticulously and scrupulously transparent.

The UN DPKO/DFS Expert Panel report advocates that the UN must make maximum use of UAVs and ever-greater use of smaller, tactical-level assets, including miniature UAVs, as part of standard requirements. It notes the scope that UAVs contribute to special technical missions through audio-visual and monitoring and surveillance technology that aid missions, and they expressly and approvingly cite the work of ‘digital humanitarians’ and the Global Humanitarian UAV Network, UAViators. UAViators hosts an updated and publicly available directory of UAV/imagery software for use by humanitarians in the field. The report approvingly shows the level to which the humanitarian community has recognised the value of UAVs for aerial surveillance and the collection of data, and how this plethora of innovations necessitated the creation of joint operations centres (JOCs) and joint mission analysis centres (JMACs). These centres are crucial to securing and continuing international buy-in from member states into what these new information management systems can do for peacekeeping if they are all on-board as full partners (UN DPKO, 2014:50-57).

One year after the *Performance Peacekeeping* study appeared, the UN’s Advisory Board on Disarmament Matters also provided a study on armed unmanned aerial vehicles (UN Publications, 2015). This report, focused on the weaponised or ‘armed’ side of UAV use, sought to take stock of the issues posed by the growing use of armed UAVs to conduct strikes in areas outside active hostilities and to create scope for greater oversight over and accountability for drone usage. As the study noted, the UN’s ultimate norm-setter-in-Chief, the

Secretary-General, had been adamant and clear that UAV use must only occur in accordance with international humanitarian law (IHL) and international human rights law (IHRL). Therefore, the report notes: “It remains imperative for the international community to reach consensus on the interpretation of established international principles and their application to the use of armed UAVs” (UN Publications, 2015:v).

This is an important counterpoint that serves to remind us that the United Nations has different yet intertwined roles that affect its norm entrepreneurship. It should weigh these different objectives in engaging in norm entrepreneurship as far as drones are concerned, and in ensuring it remains the guardian of peace and security through its ongoing disarmament work. This will be clear from the United Nations’ work in the Convention on Conventional Weapons (CCW). We will briefly see in the CCW part of the study, which looks at civil society activism on drones and killer robots and new global control regimes, how this part of the UN’s custodial role over disarmament discourses and drones and killer robots is playing out. It is a very delicate balancing act in which the multilateral international organisation is engaged at both the practical and discourse level. It has deep implications for global norms amidst intense norm contestation.

Chapter 7

Further Responses to Justificatory Norm Contestations: Drones, Feminists Transnational Civil Society and Drone Norms

7.1 Feminist Reflections on Disarmament History and Drones: Recognising Feminist Post-structural Perspectives in Norm Contestation and Emerging Drone Norms

To reflect on feminism and its impact on disarmament history and its current, contemporary impact on drone discourses and norm contestations, we must ensure that we dwell on the feminist post-structural perspective in our overall critical discourse analysis of drone discourses and norms, following the work of Weedon (1987, 1997). Her work clearly shows us the leverages the work of, amongst others, Lacan, Derrida, and Foucault to argue that a form of feminist poststructuralism can bring about social change. The feminist post-structural perspective brings together positioning theory and performative theory, but also carries a more fluid approach to identity ('subjectivity').

As Baxter (2015:43) points out, the feminist post-structural belief in the lived embodied reality of women and their subjective experiences is a crucial path to understanding the way in which gendered discourses continue to structure social relations. This centres a woman's subjectivity as a site contested in discourse. This is so because feminist post-structuralism, according to Baxter (2015:43):

appreciates the unevenness and ambiguities of power relations between males and females ... [and] questions the way biological sex is classified.

This helps us see the sheer pervasiveness of gendered discourses, more so in the security studies and international relations fields, and helps us to look through discursive practices and contexts in which women may be positioned as simultaneously powerful and powerless. Given that both post-structural feminists and radical feminists work with subjectivities based on gender, it is important to reflect on this and how it influences a critical discourse method. As a branch of feminist theory, post-structural feminism emphasises the contingent and discursive nature of identity and emphasises the social construction of gendered subjectivities. This is very prevalent, as we have seen, in a critical discourse method on drones that invokes a whole host of gendered subjectivities, as we saw in the analysis of films on drones. We have already seen at the level of popular culture in Chapter 5, how women are depicted in the drone war film genre cinematography as military commanders, spouses of PTSD-suffering drone pilots and, ultimately, as the vulnerable victims of drone strikes. It helps us to grapple in a more complex form with how the robotics revolution in the military and security realm may alter

gendered discourses in this area more generally, and specifically in how it relates to drones and drone discourses.

For its part, radical feminist discourse looks at patriarchal power relations far more directly and, as Lazar (2007) has indicated, calls for an express and distinctive discourse praxis of its own. Looking at language and how it represents power and masculinities is therefore a very important part of any CDA of drones that seeks to have a feminist bent.

Aspects of feminist poststructuralism help us foreground these issues in a critical discourse analysis of drones. The emergence of drones has the capacity to collapse gendered military hierarchies and provide different perspectives of agency, as many of the largely male traits associated with warfare become less present in a drone cubicle. As we have seen, this has also been vividly represented in film. Existing literature on drones and drone discourses has not consistently incorporated a gender analysis. This chapter discusses the largely feminist transnational policy network of feminist-driven lobbies and lobby groups (Code Pink and the Campaign to Stop/Ban Killer Robots) that stand in a long historical line of feminist mobilisation for disarmament.

One of the areas of argument that feminist inquiries about drones have to contend with is the fact that masculinism is asserted in warfare and the fact that drone warfare, and notions of 'distance', effectively reconstitute masculinist subjectivities through such drone warfare (Nicholas & Agius, 2017:155). Posthuman critical theory also has much to offer, as Braidotti (2016:13) argues that the notion that humans (i.e. man) are the measure of all things is challengeable and has been challenged effectively by a post-human turn in critical and feminist theory. She argues that such a post-human turn has clear implications for political subjectivity and for how we conceive of relations between human and non-human agents – in this study the human drone interface, which foreshadows similar, inevitable interfaces in the development of lethal autonomous weapons systems. Wilcox (2017) also takes a turn to work on conceptualisations of post-human warfare by probing drone swarms to show how such modes of modern post-human warfare carry the possibility to both take on board but also rewrite and recraft the conventional antagonisms of masculine and feminine in the drone swarms concept. She argues that feminist theorising may allow new and creative ways to think about and theorise the power relations and violence we find in posthuman warfare, and in the operational modality of the drone swarm. According to Wilcox (2017:30):

The swarm is not only a metaphor but also a central mode of biopolitical and reciprocal war, with the terrorist enemy represented as swarm like as well.

Daggett (2015) argues that the 'unmanned' weapons effectively queer the experience of killing in war and that drones are therefore highly disorienting. Conventional militarised masculinities

make killing in warfare intelligible, but drones deviate from such conventions by shattering spatiotemporal landmarks of such acts by removing two main axes thereof, namely the home-combat zone distinction or binary and the distance-intimacy (of killing) binary of distinction. She argues that drone warfare is replete with unresolved disorientations that are expressed as gender and gendered anxieties. We see some of this represented in the cinematography that was analysed in Chapter 5. According to Daggett (2015:370), such gender anxieties include the failure of the two axes (distance-intimacy and home-combat zone) to orient how we kill with drones. Manjikian (2014) argues that an interesting dynamic is at play, as drones remove the aggressors' physical presence and actual bodies from battlefields, with certain clear implications. She argues that this has an influence on the very gendered structure of war, as we traditionally see war as a constant where men are the protectors protecting women and children, who are classically the protected, vulnerable ones. This shifts in a world of drones, swarms and lethal autonomous weapons, as machines become the protectors and the human race as a collective becomes the vulnerable group that is protected, regardless of gender conventions. Whilst Manjikian (2014) points to this evolution as a possible shift, she also points out that such a scenario is somewhat in contrast with the current discourses on new technologies we find in the context of the United States military, where these discourses often serve to entrench and reinforce, and not downplay, gendered differentiations. According to Manjikian (2014:65):

Robots themselves have been constructed as subordinate, as a new type of nature which is dominated or feminized, while 'cyborg soldiers' with technological implants are constructed as hyper masculine.

Given the role that the just war tradition has played in the Obama administration's justificatory norm contestations and drone wars, it is important to reflect on the fact that feminists regard both of its key legs (*jus ad bellum* and *jus in bello*) as discriminatory against women. For feminist scholars such as Wilcox (2017), the just war tradition has a gendered bias, given its attempts to restrain and regulate war and the role this plays in defining masculinity. Feminists question the two legs of the just war tradition and the ethical challenges that they pose, as they require very clear standards of an ethics of care (Wilcox, 2017), and not only masculine ideals of rationality and autonomy as loadstars of a philosophical tradition of warfare. In this regard, the drone era calls for an explicit feminist ethic, if not a radical feminist ethic, and a feminist discourse praxis. This is what makes the role of transnational feminist networks in debates on new norms on the use of force and weapons systems so crucial in the context of this study, as we explore in this chapter.

Bourke (2014) argues that there is a crisis in critical feminist thinking and practice, as we have moved far away from hypermasculinity in security as new military technologies have displaced the central role humans play in the processes of warfare. Hasian (2014) argues that a feminist critique of *Zero Dark Thirty*, for example, analysed in Chapter 5, would show that the focus on a committed female intelligence agent that spearheaded the manhunt for Osama bin Laden is a populist, postfeminist representation and that, as such, the focus on Maya (the female protagonist agent) is one that advances militaristic causes. In this case, a female protagonist is obscuring the deeper issues. According to Hasian (2014:343), "... Maya is used in ways that reinforce structural patriarchy that deflects attention away from the larger problematics of harsh interrogations and military interventionism".

Stahl (2013) argues that the drone is an emerging medium for representing conflict, and the levels of interactivity that the drone view interface allows and provides has brought drone warfare into our homes. It brought drones into our domestic spaces in very intimate and disorienting ways. In this regard, Orford (2017) has argued that what we need is a clear psychology against militarism. We require this because our involvement is one of collectively legitimising the exercise of power that harms us all, and our complicity in supporting it requires community psychology to advocate for a psychology against militarism.

In an important study and feminist-inspired analytical article, De Volo (2016) looks at what gender recalibrations could possibly emanate from the rise of robotics and drones in modern warfare in militaries and their institutional cultures, which are highly masculine. She does this by focusing on the effect of this technology both at individual and state level and seeks to assess how drone warfare elicits gender recalibrations and the implications this may have. Her study is an exploratory one and suggests the breadth of the gender-war nexus as it relates to drone warfare. This is the case with respect to the diversity of points of impact this new weapons system entails. Hers is an initial step toward future research that looks at such relationships in greater depth. We can see these gender recalibrations not so much by virtue of military design, but by the way in which gender and war co-constitute, given how certain characteristics associated with masculinist militaries (courage, physical strength and mastery of emotions) are literally under 'threat' in the intersectional gender levelling that occurs in the confines of a drone cubicle, where these characteristics are not as decisive as they once were for a military career. According to De Volo (2016:51):

Intersectional analysis is key to this shifting masculine hierarchy, as hierarchies within race, ethnicity, sexuality, and nationality both inform and are neutralized through the gender hierarchy.

De Volo (2016:56) cites Young (2013) in identifying what has been referred to as a logic of masculinist protectionism that emerged in the wake of 9/11. This masculinist protectionism shows its hand in the shape of a paternalistic state that gives an undertaking to shield all against an assaultive masculine enemy 'other' and, in exchange, citizens are required to offer compliance and the kind of obedience that can legitimate authoritarian power domestically and justify war expeditions abroad. De Volo (2016:56) argues that drones rattle militarised masculinity, as they unsettle the core traits associated with it (courage, physical strength and mastery of emotions). This is because drones delink courage and risk-taking from the physical spaces of the battlefield, denude the importance of physical strength and strip away fear as a factor that requires mastery over emotion. As there is no 'feeling' inside a drone cubicle, these military traits melt away. As she states, this overview of the war-masculinity nexus suggests recalibrations in gender-military affairs. Drone warfare is therefore less effective in conferring venerated forms of masculinity at the individual and state levels, which is important for feminism at the individual level. This is so because drone 'warriors' are effectively akin to office workers, as is their daily routine. At the state level, drones are a means to an end for a geo-strategically important state (the United States largely in this case). Such a state can display grit and 'toughness'. It can project this at both domestic body politic levels as well as to a global audience, whether they are observing or experiencing the impact of drone strikes. De Volo (2016) views the United States as a self-appointed 'global patriarch' undertaking drone strike actions in parts of the globe that speak to its powerful (if not abusive, in her words) masculinity. These strike nations are akin to 'minors' who are legally incapable of consent. According to De Volo (2016:57), these are times when "... death is normalized, and drones are at the forefront of this 'normalization'".

Here, semiotic meaning comes to the fore once more as the Reaper drone's predecessor, the Predator, is as menacing as its name indicates – a weapon that preys on humans and brings death. De Volo (2016) argues that, at the domestic level inside the United States, the protectionist masculine role also exists and results in the protection of largely feminised 'others' from predatory and racialised enemy masculinities (based on an 'us' and 'them' rhetorical dichotomy). According to De Volo (2016:72): "From American arrogance to blowback and cowardice, gender is threaded through the meanings attached to drone warfare and the state."

She aptly captures the high-tech patriarchal imperialism of drone strikes from a feminist analytical lens and shows the building blocks for what became known as 'signature strikes' or 'crowd killing', which was one of the most offensive practices challenging human rights norms. According to De Volo (2016:73): "Within a drone strike zone, all military-aged males (MAMs) are guilty, all women and children are innocent, but no-one is protected."

This is the exact reason we see such extensive activism on the part of feminist organisations aimed at curbing the crumbling global disarmament edifice and rushing desperately to add drones and lethal autonomous weapons to its purview, lest we create a post-human history by default or design.

De Volo's work therefore links the United States' justificatory norm contestation as a norm entrepreneur state with how the United States is projected as a masculinist predator state through feminist lenses. She shows why it is important to maintain a gender lens when considering the evolution of these debates about drone norms. According to De Volo (2016:73):

Addressing such questions are key proximate steps in delving deeper into the gender-war nexus to flesh out the implications of the robotics revolution and remote killing for shifting conceptions of democracy and equality within the United States and globally, including the danger of a paternal authority circumventing consent to assert its will.

In this chapter, we seek to explore what possible positions, if any, normative or otherwise, specific selected civil society organisations (specifically feminist transnational networks) are taking with reference to the drone discourses that have been explored in the previous chapters. In these chapters, the CDA of selected political speeches and speech acts showed us the terrain for mobilisation to address specific ideologies, ideological connotations or hegemonies that have been identified through these discourses. What we will observe is that transnational feminist networks have strongly sided with the defence of existing internalised and institutionalised human rights norms and use-of-force norms. Given how some of these norms were shaped by feminist reactions to the use of force, which included the use of nuclear weapons during World War II, and the role global feminist networks had in global disarmament debates, it is perhaps not surprising to see such profound continuity and their presence in the evolution of norm contestations of modern drone norms.

It is perhaps not at all surprising that at least two prominent civil society actors we focus on – Code Pink and the Campaign to Stop/Ban Killer Robots – have clear feminist undertones. This will be explored further, as will the mobilisation strategies and efforts these institutions are seeking to replicate from the Treaty to Ban Landmines so as to surface some of the issues at play in 'killer robots', which also embrace strands of drone discourses.

7.2 Feminist Activist Transnational Organisations Shaping Drone Norms: The Role of CODEPINK and the Campaign to Stop/Ban Killer Robots (CSKR) in Confronting Justificatory Norm Contestations

The report by UN Special Rapporteur Heyns (2013), in which he expressed the view that drones and lethal autonomous weapons (LAWs) represent the biggest challenge to the systems of international law since World War II, cannot be emphasised adequately. It is a massively important view, which places the crucial issue of new norms for the use of force squarely in the spotlight. and what these may mean in the context of LAWs and drones. It raises significant challenges and debates regarding arms control and control regimes in the 21st-century war and peace space.

It is a norm contestation arena that pits the activities and practices of some states (key amongst these being the United States, United Kingdom, Israel, Iran, China and Russia) squarely against the institutional norms of which the United Nations is custodian. It also pits drone lobbyists and the corporate drone interests they represent against the activities of some religious human rights organisations in the arms-control fold. These embrace the Holy See (the moral custodian of the just war tradition), CODEPINK and other global NGOs such as the Campaign to Stop/Ban Killer Robots (CSKR), Human Rights Watch, Amnesty International, Article 36, the WILPF's Reaching Critical Will efforts, the ICRC and many more. These entities all seek to ensure a focus on the International Covenant on Civil and Political Rights' enshrined right to life, as the Heyns report did as a matter of both principle and law.

A more comprehensive study of transnational civil society broadly speaking would be required to fully explore and catalogue the drone-lobbying interests and the drones and disarmament/human rights civil society space, and how these two drivers of drone narrative strands act and interact. Such a future research recommendation is included in the conclusions of this study. This study, exploratory as it is, shows a clear direction for more research to be done to properly probe the role of different actors in driving (or even suppressing or crafting) specific narrative strands about drones globally, and to look at the effect this has on more public discourses about drones in the legislative sphere and the Parliaments of the world. This is where public policy discourses about drones belong – in democratically elected arenas where the will and word of the public are given effect. Leaving this out entirely from a study of this nature would impoverish it. Therefore, the activities of some pivotal activist transnational feminist and broader civil society actors are included briefly. Given the role that they have played alongside transnational human rights organisations in surfacing critical drone discourses and justificatory norm contestations, this is significantly important. At the very least, it is done for the sake of inclusion of some of the more crucial disarmament discourse strands of drone discourses. These discourses affect and are shaped by the United Nations and its member states, where governments take publicly accountable positions in negotiating processes.

This therefore once more involves the United Nations as a norm-setter and norm entrepreneur. In the case of disarmament, it includes the high-level example of the UN SG acting very expressly as a norm entrepreneur in releasing a new Disarmament Report in May 2018. The study touches briefly on this document as it relates to drones and LAWs. The picture that emerges in the conclusions of this study would be incomplete without recalling some of the activities of Reprieve in the United Kingdom and the American Civil Liberties Union in the United States and how they played a crucial role in enhancing drone transparency in the Obama years with respect to drone strikes in the FATA of Pakistan in particular. This is addressed in prior chapters. It is also crucial to recall what we have seen in previous chapters of the way investigative journalists like Jeremy Scahill (and his colleagues at *The Intercept*) played a role in transparency processes by releasing *The Drone Papers* in 2015 (The Intercept, 2015). These efforts at generating greater transparency created a mutually reinforcing loop of global transnational civil society lobbying to bring drone discourses out of the shadows of covert war and into the light of public discourse of what is and what is not appropriate in respect of drone usage in the frameworks of international law. These efforts shone an uncomfortable, necessary and disinfestant light on the civilian effect of drones. In this regard, we have to take cognisance of the fact that feminist perspectives have historically been a key companion to new weapon system developments, discourses of militarism and hypermasculinity for all of history. It therefore is not in the least surprising to find feminists at the forefront of drone discourses and justificatory norm contestations involving drones and human rights.

We now turn to look at the activities of two such feminist and activist-inspired entities that have been very vocal and confrontational in their lobbying campaigns to curtail drones and, latterly, LAWs or 'killer robots'. They work tirelessly to shed light on the normative undertow present in different narrative strands of drone discourses. They therefore played an active role in shedding light on 'bad' and 'good' drone narrative strands globally, and in the norm contestations they signify. We now turn to the work of CODEPINK and the Campaign to Stop/Ban Killer Robots (CSKR) in shaping drone norms. The latter Campaign is headed by the famous women of the Ottawa Treaty to ban landmines, who were awarded a Nobel prize for their work. CODEPINK's work stretches from early opposition to the Iraq war to drone activism and beyond. During the delivery of President Obama's May 2013 National Defense University speech analysed in Chapter 4, a brave feminist activist, Medea Benjamin of CODEPINK, interrupted the President and yelled: "I love the rule of law! The drones are making us less safe!" (CODEPINK, 2013). Interestingly, the President opted to depart from his prepared speech. He not only acknowledged her presence clearly, but stated that we have to listen to what she has to say as an affirmation of the role of civil society and its right to have

and to express its views in these debates, regardless of how one may view the tactics it chooses. In her clear call, cited above, she crisply articulated the rallying cry of much of civil society active in drone discourses for defensible curbs. She also showed clear awareness of the norms at stake in expressly mentioning the rule of law.

Even though a new generation of ‘digital humanitarians’ (Meier, 2015) may have an unshakable belief in the power of big data to be of assistance to humanity and is pushing a ‘good’ drone narrative strand for the use of drones in humanitarian relief, the voices of rights-based civil society organisations are somewhat more cautious in the role they are playing in global disarmament debates that affect drones and LAWs. They are far more concerned with how far drones push the existing boundaries of international humanitarian law (IHL) and international human rights law (IHRL). These bodies have bold feminist roots and a proud feminist disarmament history to draw on.

7.2.1 CODEPINK and Drone Norms

Women for Peace (CODEPINK) is a United States-based civil society actor (NGO) focused more globally on anti-war issues. It was founded by Jodie Evans and Medea Benjamin (Benjamin, 2013) in November 2002. It was particularly active prior to the United States’ invasion of Iraq in 2003 and lobbied primarily for the parents of soldiers, Iraqi women and victims of U.S. military and civilian contractor activity and abuses in Fallujah in 2004 to have their concerns dealt with accountably.

As Sjoberg (2013:175) also reminds us, the CODEPINK activism stands in an exceptionally long tradition and feminist lineage of viewing peace through gender lenses. This stretches back to Jane Addams’ Hull House and embraces the history of Greenham Common, the West Indies League for Peace and Freedom, the Women in Black, Mother Teresa and CODEPINK.

Feigenbaum (2015:265) points out that the famous Greenham Common may be required again, given that the new nuclear moment may be present in the surge of drone technology, LAWs, and the rise of a host of new militarised technologies. It is useful to leverage the cyborg feminism and anti-nuclear activism of the 1980s to find echoes of these times in the drone feminism we see today. We can rightly ask whether the rise of drones and algorithmic war places us all at the threshold of a 21st-century Greenham Common. Although these new technologies are not uniquely evil, they pose challenges as new weapons systems that put pressure on internalised and institutionalised norms.

Indeed, Benjamin’s activism, and the work of CODEPINK, have shone a spotlight on the risks of drone proliferation, says Etzioni (2013). Benjamin (2016:219) herself considers most of her activism a different form of ‘active duty’. According to her, she is pursuing liberty, justice and

an end to wars. In this quest, drones are not her ally and, whilst they may not be uniquely evil, for her that is beside the point given the other issues they foreshadow. She therefore raises clear concerns about the normalising of spying and surveillance through drone use, both domestically and globally, and laments that drones have made murder clean and easy with geostrategic implications. According to Benjamin (2013:219):

That's why the increased reliance on drones for killing and spying is not to be praised, but refuted. And challenged. The burden is now squarely on we the people to reassert our rights and push back against the normalisation of drones as a military and law enforcement tool.

As far as drones are concerned, CODEPINK began a 'Ground the Drones' campaign in 2009 in response to President Obama's growing use of drones and drone strikes in the War on Terror in Pakistan, the FATA and in Afghanistan. They have persisted with their activism as far as drones and other military issues are concerned. As part of the 'Ground the Drones' work, they targeted Creech Air Force Base in Nevada for the bulk of their drone protests in 2009, and returned again for the 10th anniversary of the war in Afghanistan in 2011. They return meticulously every year. In August 2013, CODEPINK activists disrupted an annual Aerial Vehicle Systems Integrated Summit in Washington, brandishing *STOP KILLER DRONES* placards and organised a 'Ground the Drones' Summit in partnership with the Centre for Constitutional Rights and the American Civil Liberties Union – the co-litigant in the al-Awlaki case. As we can see, there is a close synergy between the work of CODEPINK and the work of the transnational human rights civil society community, and these strands are strongly intertwined when it comes to drones. This is important to note, as we have already seen that states can and do act as norm entrepreneurs and that transnational civil society organisations can act as norm suppressors, thereby producing and/or sustaining norm contestations of seemingly internalised and institutionalised norms.

The CODEPINK event convened at Georgetown University focused expressly on ethical and legal arguments about drone warfare – a crucial bedrock of what is at stake normatively in drone strikes, as we have shown. In a simultaneously terrifying and illuminating collection of journalist accounts, congressional papers, field interviews and sets of declassified government documents on the use of UAVs, Benjamin (2013) probes the consequences and implications that lie beyond the technology of warfare. Her work is an evolution-mapping of the rise of drones and the ethical, moral and legal issues arising from their use in lethal strikes. As an organisation of civil society, CODEPINK was in Pakistan at grassroots level and organised a sunrise to sunset fast outside the Islamabad Press Club to literally atone for United States drone strikes. They met with the acting U.S. Ambassador to Pakistan in November 2011

(Bhatt, 2019). Beyond this activism, CODEPINK has also been vocal about privacy regarding drone usage in the United States itself and with respect to Federal Aviation Laws. Benjamin (2013:219) has provisionally given a ‘thumbs up’ to the use of drones in natural disasters, but not for lethal strikes. According to Benjamin (2013:219): “... rescuing hurricane victims, yes, carrying out extrajudicial killings, no.”

This is a vivid encapsulation of what is at issue in justificatory norm contestations about drone strikes. The many controversies surrounding CODEPINK are perhaps an inevitability when feminists confront defence and security issues in spaces of hypermasculinity. As we have seen historically, Poloni-Staudinger and Ortals (2013) remind us that CODEPINK is one of the important manifestations of women active in social movements that are working actively to wage peace in a world hallmarked by terrorism and counter-terror policies and the ideational frames that have brought this about. Their work on drones represents an important social movement challenge to orthodoxy, to the policies associated with the War on Terror and the policies of both President Bush and President Obama.

Benjamin records how, in 2012, fellow feminist, human rights activist and Nobel Laureate, Jody Williams, of Human Rights Watch and Harvard University Law School’s International Human Rights Clinic released a visionary report entitled *Losing Humanity: The Case Against Killer Robots*. She recounts how this was the moment an announcement was made that began the campaign to ban the development, production and use of fully autonomous weapons through a legally binding instrument. This is one of the most important turning points and catalytic moments in the evolution of the next civil society organisation we turn in the study – the Campaign to Stop/Ban Killer Robots (CSKR). The Campaign is prolific, globally visible and profoundly active in international efforts to create proper drone and LWAs regulation in the context of the UN Convention on Certain Conventional Weapons (CCW). This campaign coincided and correlated strongly with some of the work of UN Special Rapporteur Heyns (2013) explored in the preceding chapter. We now turn to this disarmament process and the role of transnational civil society within it through the rubric of some of the work of Garcia (2012, 2015, 2016). She traced the evolution of many aspects of global disarmament, security and human security policy regimes in her research over many years and through the transnational activism of the Campaign to Stop/Ban Killer Robots.

7.2.2 The Campaign to Stop/Ban Killer Robots (CSKR) and Drone Norms

An argument can be made that drones and LAWs are as dangerous a development to international peace and security as the nuclear threat was. and as revolutionary. It is perhaps not surprising to find women, feminists and female Nobel Laureates in the lead in banning and

disarmament discourses in the 21st century. This is transpiring amidst echoes of the Cold War reverberating in today's geopolitics in the context of rising tensions.

Female Nobel Laureates like Jody Williams and her Ottawa Treaty partner, Mary Wareham, are once again at the forefront of the CSKR. In this context, they are taking an active role in the UN disarmament discussions about drones and LAWS. Such discussions are taking place under the auspices of the UN CCW with a specific Group of Government Experts (GGE) that has been producing a host of reports on these issues at glacial pace since 2016. It already seems clear that, if the international community fails to reach a disarmament-infused consensus to safeguard peace and security in the 21st century, the sage words about the dangers of state practice and human rights of the Heyns report may come to pass. This will be the culmination of the various justificatory norm contestations this study has sought to probe. It seems clear that, if we leave it to individual member states of the United Nations to set precedents and craft norms through state practice, the warnings of UN Special Rapporteur Heyns on lethal autonomous weapons may come to pass and become a salient feature of modern war and peace.

We now turn to the work of the CSKR. The CSKR was launched in 2012. In 2013, it received a significant boost from the Heyns (2013) report's call for an outright ban on lethal autonomous weapon systems (LAWS) or lethal autonomous robotic systems (LARS), as the report called these new weapons systems. There is profound normative consistency between the Heyns (2013) report and the work of the CSKR.

Before we turn to the CSKR itself, it is important to look briefly at some of its antecedents. According to Benjamin (2013:191), we see the creation of the United Kingdom's Drone Campaign Network, and the work of activist Chris Cole and the blog he runs, 'Drone Wars UK', emerge as far back as 2010. The Drone Campaign Network embraces peace groups such as War Resisters, the International Campaign for Nuclear Disarmament, Child Victims of War, Fellowship of Reconciliation (England) and Pax Christi and Scientists for Global Responsibility – interestingly forging unity between religious organisations and scientists. In 2009, the International Committee for Robot Arms Control (ICRAC) was formed, embracing robotics specialists, philosophers and human rights activists from many countries. The group focused on the effects of robotics on rules of engagement in militaries and threats to peace and security by robotics and automated robotic systems. ICRAC is now a crucial member of the more broad-based CSKR. These are crucial issues – command-and-control and chains of command – that are profoundly at issue in modern weapons systems and their evolution.

ICRAC expressly modelled itself on the 1992 Campaign to Ban Landmines in hoping to bring similar successful civil society campaigns around regulation to the question of drones and

LARs. It is important to recall, however, that the landmine ban cannot be regarded as a successful case of UN-led norm-setting. Its success was in large part due to the fact that the negotiations took place outside of the UN's system and the treaty conference relied on voting, not consensus. This is a crucial detail to consider for the future of drone discourses and civil society activism on drones if the formal CCW process were to fail in any form. Governments in attendance had to 'opt-in' prior to attendance and agree to the treaty text before they arrived for talks. According to Benjamin (2013:198), the campaign successfully stigmatised landmines to such an extent that those not 'opting-in' could be shamed into not using landmines. Memorably, the late Princess Diana and the South African President and global peace icon, Nelson Mandela, played significant lobbying roles in the landmine ban. The difference today, apart from the fact that we do not have a Princess Diana and Nelson Mandela lobbying globally, would be the fact that geostrategic tensions are far more prevalent now than they were then. The landmine ban came close on the heels of the end of the Cold War. Some would argue that we could be standing on the cusp of another global period of Great Power politics and politicking, not dissimilar to the Cold War times, but with the very real risk of a hot war with new weapons systems.

However, the common denominators between then and now, in terms of the attempts to ensure that global efforts to ban the use of LAWs follow the successes of the landmine ban treaty, is Jody Williams and her continued activism, as well as the efforts of Mary Wareham, who is continuing a long tradition of feminist activism while formally wearing her Human Rights Watch hat. It should be noted that even Williams herself is somewhat cautious about the chances of success this time around against a well-funded, well-organised drone lobby. In an interview with Wareham, Benjamin (2013:198) captured her reflections thus:

But with landmines we didn't have a lot of industry blowback because in terms of weapons sales, landmines are chump change. Drones are different. They're a cash cow for the beltway bandits. There's going to be a massive arms race for these kinds of weapons and I'm afraid the companies just won't tolerate a ban. Even regulations on their use would be fiercely opposed by both the weapons industry and by government authorities, especially in the United States.

It seems that one might be able to predict that, what could realistically be achieved, may be a stoppage of autonomous weapons systems, which will be hard enough, but not a drone ban. It seems inevitable that drone discourses about 'good' and 'bad' drones are set to continue to alter the global landscape of peace and security and new norms on the use of force. These norm contestations and others, at the time of writing newly emerging ones related to drone use during the COVID-19 pandemic, will continue to have an effect on international norms or

primarily human rights across various policy fields, including policing and migration. The CSKR, a coalition of NGOs that includes the WIPFL's Reaching Critical Will Campaign and a host of others that are not pure feminist organisations, such as ICRAC, HRW, AI and Article 36, includes at least 118 international, regional and national NGOs from over 59 countries, and this list continues to grow. It was formed in 2012 and has as its express aim to ban fully autonomous weapons and to retain human control over the use of force. The CSKR is currently deeply engaged in and focused on the work of the 2019 UN CCW Group of Government Experts on Lethal Autonomous Weapons Systems (LAWS) in order to lobby states to prohibit fully autonomous weapons. These processes are set to continue into 2020 and beyond.

As has been mentioned, some of the global web of members include HRW, Amnesty International, Article 36, ICRAC, Mines Action Canada, the Association for Aid Relief Japan, Nobel Women's Initiative, PAX, Pugwash, SEHLAC and WILPF. Its current global co-ordinator, Mary Wareham, is based at Human Rights Watch in Washington. The debate on whether a ban on fully autonomous lethal weapons should occur began during the 2014 meeting of the UN CCW. The CSKR expressly invoked and pursued the example of the Ottawa Treaty as a roadmap of what ought to occur with such new weapon systems in ensuring a ban. Lewis (2014) points out that the CSKR was adamant that the Ottawa Treaty process be used as a blueprint. The CSKR and control of LAWS is of great importance in a study on drone discourses, as newly developed swarming drones are a form of future LAWS. As Lachow (2017) has stated, the development of swarming drones, which are a subset of independently operating autonomous weapons, poses new strategic, ethical and legal questions, as they pose potential dangers. These swarming drones, developed by the United States and China primarily, are raising fears about proliferation and the absence of what is referred to as meaningful human control. According to Lachow (2017:96): "The risks posed by swarming drones should be considered sooner rather than later before their destructive potential reaches maturing."

Garcia (2012, 2015, 2016) has written extensively on new security regimes and the role that the United States should play as a norm-setter and norm entrepreneur in leading a global ban within the context of the UN system. According to Garcia (2015b:57): "The U.S. should take the lead at the UN in creating specific new global norms and clarify expectations and universally agreed behaviour."

Working on weapons bans is not something that the international civil society groupings can do on their own without the active collaboration of crucial norm-setting states. This will be true for the United States, and is equally true for many others that play such a role. They will need

to work side by side with civil society in disarmament talks in the future. Wareham and Goose (2016) point out that the global community of nations has thus far banned six weapons types (poison gas, biological weapons, chemical weapons, blinding lasers, antipersonnel mines and cluster munitions), whilst regulating others. In the case of the last three bans, it was dedicated work by global transnational civil society bodies, and their deep networks, that was the driving force behind them. These organisations had their roots deeply embedded in ‘humanitarian disarmament’ movements, with their unwavering focus on the protection of civilians. As Wareham and Goose (2016:28) point out:

Humanitarian disarmament has also been characterised by the prominent role of NGOs and civil society more broadly, as well as partnerships between different stakeholders to achieve their goals.

The debate on what constitutes the ‘autonomy’ of weapons systems has proven to be overly complex, from the first meeting of the experts and GGE on lethal autonomous weapons systems to discuss a possible ban on such weaponry. What is important to note on drone discourses in particular is the deep continuities that are to be found in the role of feminist networks, from the start of anti-nuclear campaigns and Greenham Common days to the contemporary work of CODEPINK on the Iraq and Afghan wars and drones, to the work of the CSKR in the UN CCW today. Drone discourses are umbilically linked to disarmament debates and the emergence of new discourses on lethal autonomous weapon systems, and efforts to control these through a ban in the CCW. These feminist campaigners have strong historical antecedents and have been relentless, often in the face of harsh if not toxic masculinities associated with and prevalent within the military-security complex globally. It is undeniable that feminists have played an unassailably crucial role in altering the contours of the LAWS debate already, and will continue to do so. As Bolton and Mitchell (2014) show, their work has played a clear role in moving the LAWS conversation to terrain where they effectively reframed it as a key human rights question after 2013.

In classical feminist tradition, the CSKR, like the Ottawa Treaty campaigners before it, has turned the discussion on LAWS on its head: instead of emphasising – in a classical realist way – the efficacy of such weapons systems, they are now cast as a threat to humanity and the very essence of life itself. This is the crux of the entire normative discourse that is at the very heart of this study. When Jody Williams continued her activism from the Ottawa Treaty to LAWS and the need for a ban, the ball started rolling to redefine and alter the conversation through feminist lenses. This was followed, a month after the launch of CSKR, with Special Rapporteur Heyns’s strong, unequivocal call for an outright ban. In a report focused squarely on the right to life and its erosion because the limits of international law frameworks had been

pushed by the emergence of a host of new weapons systems and by the emergence of lethal autonomous robotics (LARs) in particular, Heyns's (2013) voice bolstered the CSKR. Later in this chapter we shall see how the UN SG also added his voice unequivocally to call for a ban in 2018, using his considerable power as UN norm-setter-in-chief. He did the same with great consistency in 2019 and 2020 when speaking on global disarmament crucibles. Taken together, the Harvard Law School document on Killer Robots, the creation of the CSKR, the Heyns (2013) report and the UN Secretary General's strong words have drawn a line in the sand on the right to life and international law. This has made the lethal autonomous weapons discourse the ultimate nadir of norm contestations on human rights in our era.

From here the 'ban' call became part of an official diplomatic agenda when the state parties to the UN CCW agreed to a four-day meeting of a Group of Government Experts in May 2014. This meeting was called to start a discourse about LAWS at the disarmament level of the United Nations system and the CCW – which is an on-going review process. This process was in its sixth year of deliberations in the UN structures at the time of writing. A formal decision was taken in December 2016 by the 5th Review Conference of the High Contracting Parties to the CCW to create a Group of Government Experts on LAWS, which has been meeting consistently since 2017, and its work is due to pave the way for a discourse to regulate, some wish to ban, the use of LAWS. Given that drones, as an example, are not only available to states, but also to non-state actors such as drug cartels and ISIS amongst many others, the work of the GGE and a ban treaty, and efforts to curb proliferation, seem long overdue and ripe for a productive conclusion.

As Bolton and Mitchell (2014) point out, gender was never far from the surface in this 'killer robot' ban process, as pro-killer-robot discourses produced and reproduced the gender stereotypes prevalent in global disarmament talks where female individuals are often typecast as emotional and incapable of making detached decisions. These events act as a precursor to the growing rise of discourses on 'women, peace and security', as their absence from panels on and discussions of these new LAWS was excruciatingly visible in the early stages of the GGE processes at the UN. Given the role of feminist activist organisations, this is now altered, also, in large part, thanks to the work of the CSKR, which has helped alter the terms of the discourse to focus on the dehumanising effects of killer robots and the risks of de-humanising violence. These concerns are part and parcel of and transcend gender. It is humanity's concern. That having been said, feminism is an important perspective to bring into a discourse analysis of drones, as it sees a discourse focused on the strategic value of drones defined in terms of lethal use to be a masculine assertion. The core contribution made is that feminism critiques classical realism's masculine foundations. It brings human rights and humanitarian considerations into sharp focus in debates on weapons systems. It does so from the vantage

point of constructivist approaches. Feminists have gone to see for themselves. CODEPINK literally has gone to see and witness the direct impact on the lives of those who live under drones and the risks this ultimately also poses in creating ever-greater insecurity in the global community. Feminist perspectives help us to have a sensitivity to and sensibility about the lives of those who live under drones and the always-present gorgon stare. It gently and deftly moves the lens of analysis to the individual and the impact on his/her life, which it extends to all human life and the right to life. As De Bhal (2015) says:

... a feminist insight to the effects that drones have on impartial-individuals in drone-occupied states has the potential to assist U.S. policymakers. It could force them to reconsider whether or not drones are a viable policy option if the War on Terror is to end. Furthermore, a feminist insight should also restrain those who claim that 'drones work' because this conviction can lead to the perpetuation of a blind faith.

Feminism tackles hegemonic masculine ideals. A credible argument could be made that drones and their lethal use are the very embodiment of such hegemonic masculine ideals in military contexts too often still hallmarked by hypermasculinity. This is a point also traced by Wareham and Goose (2016). They look at the role of the global civil society movement (with clear feminist undertones) that sought to alter the tonality of the discourse on drones and LAWS to focus strongly on the human and human rights impact of such systems. In the context of justificatory norm contestation, feminism may have something unique to offer. Interestingly, Heathcote (2015) makes a direct call that the world may need a new feminist perspective on the law on the use of force, which could re-imagine and grow the parameters of the current prohibition on the use of force we find in Article 2(4) of the UN Charter. This is worthy of consideration, given that the very undercurrent in most drone discourses and discourses on the LAWS is, in fact, a deeper contestation of the norms on the use of force in the wake of 9/11 and the Afghanistan and Iraq wars, and the consequences of these events in the fabric of the global body politic in the long term.

Jones (2018) argues that the focus of LAWS debates on the representation of these weapons as exceptional serves to obscure and bury deeper issues of killing regarding a far broader range of technologies across the human-machine/autonomous system spectrum. He argues that this shows that the attempts at legal wrangling and text codification aimed at regulating the line between military and civilian-use technology is perhaps an entirely fruitless exercise, considering the linkages between these two types of technologies. This is vividly illustrated by the revolt in the technology workers community about collaboration on defence projects in firms that do not have security or defence as their core business.

For example, we have also seen a host of technology engineers, many visible and vocal ones being women such as Google engineer and employee, Laura Nolan, who have resigned out of principle, concerned at the growing defence-ICT nexus we see in projects like the Pentagon's Project Maven, which uses AI to analyse drone imaging. She is now an active part of the CSKR. It is important to note that Google, for example, has subsequently ceased its co-operation with Project Maven. The effects of these weapons and weapon systems are as clear a threat to the legal framework of international law as lethal drones have been.

What is observable is a growing schism in the international community in debates on drones and LAWS, with countries such as France, Israel, the United Kingdom, the United States and South Korea proving to be obstacles to the realisation of possible legally binding bans of LAWS (which would include swarming drones). Some of these divides concern differences amongst countries also present and persistent in on-going disarmament talks under the GGE of the UN CCW process. This leads to increasing doubts that the UN will be the right forum to deal with these issues. If global transnational civil society organisations believe that the GGE UN CCW process is a sophisticated form of placating their serious concerns and to slow these down in any way whilst more sophisticated LAWS are being developed, this could trigger a strong backlash. Such a backlash would result in a concerted effort to replicate the Ottawa Treaty process and they would embark on a significant global-shaming campaign. Time will tell if this will occur.

At the time of writing, and after nearly five years since the first overtures of the group of experts to discuss these issues under the UN's banner, it seems unclear whether there will be – to borrow a phrase from the Women's International League for Peace and Freedom (WILPF) – sufficient 'critical will' for an agreement to be made to start formal negotiations. These negotiations would be either towards a global ban treaty or would indicate whether the only route ultimately will be an independent process outside of the UN, like that which preceded the inking of the Ottawa Treaty. In interviews, Mary Wareham has already described some of the impasse and glacial pace of UN CCW processes as a result of the clash between what she terms 'do something' and 'do nothing' states.

That said, there are at least two risks to the current effort to replicate the Ottawa Treaty's success for lethal autonomous weapons systems. Firstly, the Ottawa Treaty succeeded outside of the UN system and its member states' trade-offs, whilst the 'Killer Robots'/LAWS campaign is deeply trapped within these very mechanics of the UN CCW bureaucracy and processes. Secondly, as Bahcecik (2019) points out, discordant ways of approaching the 'killer robots' debate may place at risk the formation of the kind of deep and broad coalition required

to ban these robots and to create and craft the norms that would be needed as a guidebook or playbook for future war.

Some have argued that drones, LARS and LAWS should be kept separate from each other in CCW discussions about a treaty, but as Lucy Suchman of ICRAC told a UNODA Panel (2018) drones and LAWS raise similar issues under the CCW and its protocols. There are many academics and practitioners in the military context who simply believe that the efforts of civil society activists are doomed to fail. For example, Phillips (2017) states from his military vantage point that these efforts to resist 'killer robots' will be futile in stopping their advance, and that all we shall see when we look back at this period twenty years hence is how lethal autonomous advanced systems substituted man on the battlefield, showing how efforts to stop its deployment and use were entirely futile.

Beyond the actions of civil society around LAWS, and the actions of member states of the UN or their inaction in the CCW process, Williams (2015) reminds us that questions about LAWS really go to the very heart of how democracies engage with questions of war and peace. Processes that do not engage with such deeper issues (fundamentally the use-of-force questions) will entirely miss the point if they remain stuck on legalistic definitions and interpretations of what constitutes meaningful human control over weapons systems like these using anodyne definitional pie-charts. These are profound and significant challenges that must not be neglected if the efforts at regulation are not to miss the deeper issues of the just war tradition, and how democracies use force and wage wars. It is crucial that we move beyond a focus on only regulating the human/machine interface and decision-making moments purely for legal regulation and forego the deeper issues that remain. As he argues, we need deep and profound debates about these questions in democratic societies, which ought to lead discourses about the development of such systems.

These discussions simply must contend with the relationship such systems have to nature and the core ethos and goal of military violence undergirded by democratic principles and values in democratic societies. Only such processes can properly deal with the contextual evolution of autonomous weapons systems. Williams's powerful argument is also used by Huelss (2019), who equally seeks to move beyond the regulation of the revolutionary weapon systems and use-of-force complexities within such systems to the glaringly neglected and more profound questions of what the introduction of these systems may mean for how we actually make decisions in a world with a Foucauldian 'apparatus of security' ever present. He shows how the adoption of these weapons systems may indicate that lethal autonomous weapons systems also construct reality in their operation, thereby crafting procedural norms that can elbow out democratic norm-driven deliberative political processes. We have seen some of this

at work in earlier chapters, noting the marginalisation of and acquiescence by legislative arms of government.

It is such processes that ought to shine a light on why these systems matter and why we need to contend with human-machine interactions and their implications for modern international relations, and not machine-constructed realities. We are dealing with entire new realities being constructed that bring their own subjectivities and intersubjectivities to the surface. This is uncharted territory, not only for human beings and soldier statesmen in militaries and civilian leaders in executive and legislative branches of the state, but also for the United Nations and the entire international system. It requires close study and proactive policy solutions that enshrine life.

From a feminist perspective, what we are dealing with here is a stark reminder of Donna Haraway's (1985) *A Cyborg Manifesto*. The work contains an image of a cyborg that is a firm rejection of existing boundaries that separate 'human' from 'animal' and 'human' from 'machine'. In this work, which is a seminal moment in the evolution of feminist posthuman theory, she argues strongly that feminists must move beyond traditional gender, feminism and politics by using the figure of the cyborg. Perhaps the dawning of what UN Special Rapporteur Callamard (2020) has called the 'second drone age' is the moment when global transnational feminist organisations need to heed Haraway's call in order to mobilise around a disarmament agenda that deals with drones as if they were the cyborg, given how they collapse the boundary between humans and machines.

7.3 Disarmament, the UN CCW and Drones

In 2018, the UN Secretary General emerged as the institution's norm-setter-in-chief on disarmament issues, which include drones and the use of LAWS. He did so through the issuing of his report, *Securing our Common Future: An Agenda For Disarmament* (UNODA, 2018) in May and by strongly using the commemoration events of 100 years since World War I in Paris to add his voice to the CSKR's drive for an outright ban of LAWS in August of 2018. In the foreword to the report, he sketches a picture of a complex world, hallmarked by growing global tensions and proliferation problems that form the backdrop to the United Nations' disarmament efforts (UNODA, 2018:viii):

We are living in dangerous times. Protracted conflicts are causing unspeakable human suffering. Armed groups are proliferating, equipped with a vast array of weapons. Global military spending and competition in arms are increasing, and the tensions of the Cold War have returned to a world that has grown more complex. In today's multipolar environment, the mechanisms for contact and dialogue that once helped to defuse tensions between two super-powers have eroded and lost their relevance. This

new reality demands that disarmament and non-proliferation are put at the centre of the work of the UN.

The countries that he mentions in his foreword that are worst afflicted by conflict and that should see the benefits of disarmament include the Syrian Arab Republic, Yemen, Afghanistan, South Sudan, Somalia and Mali – many of which have seen lethal and surveillance drones deployed overhead and that have featured in this drone discourse study at length. The UN SG explicitly states that developments in science and technology must be used for the good of humankind, and expresses the hope that his agenda for disarmament will engender dialogue amongst the member states of the UN.

Whilst emphasising ‘disarmament that saves humanity’, the report points to the ongoing challenges of curbing nuclear proliferation and chemical and biological weapons and cites the importance of curtailing the emergence of new and destabilising weapons in outer space. In emphasising ‘disarmament that saves lives’, the report looks explicitly at curbing IEDs, drones, small arms and light weapons. The continuous link between feminism and arms control is evident here: from the initial anti-nuclear weapons work of feminists to their consistent lobbying against small arms and light weapons, from their involvement in the formation of the Arms Trade Treaty to the activities of CODEPINK today on drones, there is perfect consistency in how strongly the global feminist movement has worked on disarmament and for global peace.

With respect to drones, the UNIDO report is clear about the extent to which the manner of their use pushed the boundaries of international law and how this needs to be resisted: “We must also remain on guard to prevent new technologies, such as armed drones, from tempting any reinterpretation of international law” (UNODA, 2018:x). In this he echoes the norm entrepreneurship hallmark of the reports of Alston, Emmerson and Heyns, analysed at length in Chapter 6, and the lobbying efforts of CODEPINK and the CSKR probed in this chapter.

Whilst probing ‘disarmament to protect future generations’, the report embraces science and technology but cautions about their role and the role of LAWS, stating clearly that such new technologies pose challenges to existing legal, humanitarian and ethical norms, non-proliferation, international stability and peace and security. It launches a clarion call for final human control of such systems: “In the face of the growing automation of weaponry, new measures are necessary to ensure humans always maintain control over the use of force” (UNODA, 2018: x).

To ensure ‘securing future generations’, efforts will require responsible behaviour in cyberspace and responsible innovation. In placing special emphasis on renewed political will and partnerships, the report seeks to render disarmament part of an equally shared global responsibility. It can safely be argued that the UN SG adding his voice so clearly should both

aid and speed up CCW efforts to ban 'killer robots'. However, this may not be happening as it should, due to resistance from some core and key states. Germany is emerging as a strong ally of the UN Secretary General and a strong voice in this process and in global disarmament talks on LAWS. The *Securing our Common Future* report is unambiguous on drones and contains a section expressly headed, "Increasing Accountability, Transparency and Oversight" on armed drones (UNODA, 2018:38). It raises the alarm and cites disquiet about the expanding and growing use of armed drones to conduct targeted strikes outside of traditional battlefields. It voices concern about the great proliferation risks that exist with respect to drones, as armed drones are uniquely susceptible to misuse compared to other technology whether in the hands of state or non-state actors, which multiplies risks to peace. It calls for greater transparency. According to the UNODA (2018:40) report:

Increasing transparency and accountability on the use of armed drones could increase confidence in adherence to international law, promote common standards to reduce the potential for unlawful acts, protect civilians, promote international peace and security, promote the democratic legitimacy of counterterrorism operations, assist in the investigation of human rights violations, and facilitate implementation of export controls.

Of its own accord, the United States State Department in 2016 launched the Joint Political Declaration of 53 states that sought to counter drone proliferation. The report calls for proper transparency on and accountability for drone holdings and on the transfer of armed drones, which will be a crucial control regime as it could herald proper export controls and international controls against illicit transfers.

It is important to consistently highlight the link between disarmament and feminism. In this regard, the efforts of CSKR form a golden thread, as the new weapon systems would magnify existing power imbalances and biases and, for that reason alone, the consistency of feminists on disarmament in the LAWS and LARs sphere is noteworthy. One need not move much further than an understanding of the power imbalances and biases that inform facial recognition software that would be at the very heart of many of these systems in order to understand the powerfully important consistency of global feminist movements in this moment of CCW reform at the UNODA level of the UN.

Two years later, on 11 November 2018, following the release of the Disarmament Agenda, the UN Secretary General used his agenda-setting norm-entrepreneurship power at the Paris Peace Forum once more to state an unambiguous view on killer robots and the need for a ban. According to the UN Secretary General (2018):

Imagine the consequences of an autonomous system that could, by itself, target, and attack [a] human being. I call on States to ban these weapons, which are politically unacceptable and morally repugnant.

Since at least 2012, and more intensely so since 2015, specific debates about drones and the prospects for their regulation have surfaced. One of the important contributions to this complex question is that of Buchanan and Keohane – who himself identifies as a feminist (2015) and their creative proposal for a drone accountability regime (DAR). What is interesting about the scheme they propose is that it could help ensure that there is better compliance with the laws of war and international law in the case of lethal drone use. Its use currently, in the absence of such a formal drone accountability regime, often pushes the limits of the applicable legal frameworks and the just war tradition, violates state sovereignty and overuses military responses, as we have already noted in the analysis of justificatory norm contestation.

What they propose is a DAR that is more ambitious than the UN's Missile Technology Control Regime (MTCR). The DAR would have three key structures:

- An Assembly of States,
- A Transnational Council with key civil society bodies, such as the ICRC, and
- An Ombud with *ex ante* and *ex post* accountability roles.

The Assembly of States would institutionalise rules governing drone usage for state and non-state actors and inflict reputational damage for all breaches of governing rules seeking accountability from states, non-state actors and drone operators. The Ombud would have the power to probe actual instances of drone usage. Together, such multiple strands of a new scheme could ensure state accountability for drone use. Accountability would be both *ex ante* (for planned strikes, including public explanations of why a strike may be justified without the consent of the state in which a strike takes place and which is presumed not to agree with it) and *ex post* (requiring a plausible reason for the strike and a submission to the Ombud to probe it). The role of the Ombud in the scheme of a DAR is as the heartbeat of its transparent ethos. They proposed that such a DAR ought to form part of the UN's machinery to regulate drones. Interestingly, the US Department of State took the initiative and crafted and launched the Political Declaration already mentioned, thereby at least flagging a joint concern about drone proliferation during the Obama administration, even though this falls far short of full and proper global treaty codifications.

After the new disarmament report was released by the UN SG, a thoughtful report was also released by the NGO Article 36 (2018:2). This civil society partner of the CSKR drew attention to the fact that the key problem with drones is that they wedge into an intersection between

risky technology with various potential and the erosion of existing institutional norms, which are two distinct areas that both require attention. The report, entitled *Approaches to Technology and Policy: International Standards and Addressing Drones in the Use of Force* (Article 36, 2018) points out that it will not be enough to treat drones as a weapons issue only that is governed by the UN's MTCR and CCW. It calls on states to do more, given how drones have been used in contemporary use-of-force practices by these very same states. It shows that states have to move beyond their current stances to specifically and accurately define and reinforce normative and legal boundaries for these systems. These more precisely defined boundaries must be instructive to govern the 'where', 'when' and 'how' of the use of drones in the use of force, and whether such a role for drones should be accepted at all by the international community of nations as far as the use of force is concerned. They formally recommend that the solution lies outside the banning of drones and that greater efforts ought to be made to control the proliferation of drones for the use of force. As they make clear, treating drones as a weapons technology allows both an alertness and response to proliferation risks, but also gives states an opportunity to build stronger bonds on more clear international norms for the use of force that protects communities. It allows states to clarify and affirm how such norms govern the use of drones explicitly. This is significant as far as the sometimes very odd and perhaps deliberate silences about drones in democratic *fora* and parliaments of the world are concerned. From an analytical CDA perspective, we recognise that silence can also speak. The Article 36 Report cited above observes that this question of silence exists. It notes how it is an important part of the problem when the international legal and policy machinery is so decisively outpaced by the advancement and use of technology. According to Article 36 (2018:3):

... and drones have not yet seen significant discussion on the level of general principle (rather than a focus on the conduct of particular states) about what their role should be.

As we have seen in this study, much of the focus has been on the practices adopted by the United States in respect of its drone policies, but the broader international community has been marked by an eerie silence. It is starting to become clear from the silences and the 'glacial pace' and slow progress of the UN CCW process, and the public statements of the CSKR and Mary Wareham, that the UN system will either manage to convince states such as France, the United Kingdom, the United States, Russia and South Korea, to work towards a proper banning treaty or a different process could emerge. At the time of writing, it does not appear likely and is somewhat implausible that an outright ban will be secured in global talks. The possibility of a different process (relying on international shaming, stigma, pressure and taboos to become a norm against drones) could emerge, akin to the process and approach

taken in the Anti-Personnel Mine Ban Convention (the Ottawa Treaty), which was concluded outside of the UN. It stands to reason that these two processes remain a possibility, as the global disarmament talks process is an evolving one in geopolitically complex times in the context of justificatory norm contestations analysed previously.

An overlap exists in the form of feminist activist campaigners, such as Jody Williams and Mary Wareham, both of whom led the Ottawa Treaty efforts, and their current engagement with the CSKR in the CCW process. It seems a safe wager to suggest that, if the CCW process fails to secure an outright ban, another Ottawa Treaty-like route will follow immediately at the strategic positioning level of global talks as far as drones and LAWS are concerned. This also is shown by the work of Garcia (2012, 2015, 2016). Indeed, as Garcia (2016) has reminded us, and much of the analysis in this study has borne out, new notions of preventive self-defence as an emerging if not cascading use-of-force norm, drones (UAVs) and new weapons systems (LAWS) shows us that the world requires constant new forms of governance. This is a requirement that reaches beyond mere disarmament efforts, formidably important as they may be, in order to avert disaster when geopolitical tensions rise, as they inevitably do. Her well-reasoned concept of 'preventive security governance' may yet become critical, also in the context of drone discourses and the use-of-force discourses tied to their use. According to Garcia (2016:94):

I define 'preventive security governance' as the codification of specific or new global norms, arising from existing international law that will clarify expectations and universally agreed behaviour on a given issue-area. This is essential for a peaceful future for humanity and for international order and stability.

It seems a safe bet that women and feminist campaigners and campaigns will be at the forefront of current global disarmament efforts, as they have always been. This is, and will remain, the case with respect to drones and 'killer robots', exactly as they were in other contexts of nuclear proliferation and other Cold War dynamics and new wars. We have not heard the last from the CODEPINK, CSKR and WILPF Reaching Critical Will or Women Nobel Laureate campaigners in global drone discourses that pit 'bad' and 'good' drones against each other in the peace and security debates of the 21st century that put pressure on existing human rights norms.

It is very much a Greenham Common redux moment in 2019 and early 2020, and it appears from the analysis in this study that drone discourses are only beginning and will last well into 2020, 2021 and undoubtedly beyond. Such discourses are still far too secretive and covert. For the most part, they are taking place outside of the parliaments of the world where the people's elected representatives seek to hold power – public and private – accountable. At

least they are somewhat more visible in the context of the formal processes of the United Nations' global disarmament. This will have to change for the global community to have a sustainable and defensible drone policy (on both the offensive and defensive use of drones) free from deep democratic deficits that could generate a backlash.

7.4 Future Contestations and Feminist Stances on Lethal Autonomous Weapon Systems and Norms: Towards Drone Regulation and a Roadmap for Norms?

Mary Wareham of the CSKR has warned of the glacial pace of the talks on the banning of killer robots. What seems to be emerging in the Group of Government Experts of the High Contracting Parties to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects since 2017, and subsequently in its reports (notably 2018 and 2019), is indeed a glacial pace. It appears not to be moving based on principled normative departure points and to be very procedurally driven. At the time of writing, it appeared to be bogged down, although it is a dynamic process, but this may change. However, what is envisaged are further meetings in 2020 and 2021, leading to agreement on possible recommendations on options related to emerging technologies in the area of LAWS. It is starting to look like the politics of deferment. This is happening in the context of the CCW considering contributions of experts who include legal, technological and military experts. It forecasts that all these additional discussions leading in to the Sixth Review Conference by which time in 2021 both development, use and proliferation of LAWS, or at the very least drone swarms will be at an advanced stage and all but impossible to reverse or subject to new democratic controls amidst growing pressures for permissive politics and laws. Whilst the UN disarmament process and the CCW process must be a resource of hope and not cynicism, it seems clear that civil society will start working on a 'Plan B' based on the Ottawa Treaty to ensure its activities keeps pace not only with the drone discourses and discourses about LAWS, but also with the very real pace of weapons development whilst talks grind on glacially. It also seems clear, from the analysis above, that the world will not only need arms control to deal with drones, but will need to prioritise a conversation about how the norms on the use of force in the global community became contested after the Iraq war and in the wake of the Suleimani drone strike.

It seems clear that the community of nations must have a clear and decisive debate on what effect this has already had, in the absence of state conformity with the UN Charter and existing treaty obligations, on the just-war tradition. It has a fundamental and crucial bearing on drones and LAWS and any debates on their use and regulation. It deeply affects the development, deployment, and realistic regulation of these weapons systems.

This unresolved question of a contested norm may be one of the most crucial pieces of the global disarmament puzzle, both for and beyond drones.

Chapter 8

Findings, Conclusions and Future Research Directions

This study on ‘bad’ and ‘good’ drones set itself a clear research task. It set out to probe the extent to which new norms on drone usage may be formed through norm entrepreneurship in specific speeches and speech acts (specifically by United States policymakers), through popular culture (in the drone war film genres and documentaries), in the activities of international organisations (such as the United Nations and its Special Rapporteurs), and through actions of transnational feminist civil society organisations (such as CODEPINK and the Campaign to Stop Killer Robots). By looking at the theoretical work of Finnemore and Sikkink (1998), Stimmer (2019) and Iommi (2020) on norm life cycles, this exploratory study sought to shed some light on the extent to which modern drone usage has placed considerable pressure on existing internalised and institutionalised norms in the United Nations charter on the use of force (Article 51) and in key international human rights instruments tasked with protecting and guarding the right to life. In doing, so it sought to make a contribution to a growing body of literature that shines a spotlight on norm emergence, norm regression and norm contestations as part of norm life cycles, which can also witness so-called ‘bad’ norms emerge within the international system that can serve to undermine and threaten international peace and security. This, as the analysis shows, is the case with the ‘bad’ norms associated with problematic assertions about pre-emptive self-defence and targeted killing that is neither condemned nor condoned by the United Nations Security Council, as we see in the latest report of the UN Special Rapporteur on extrajudicial killing (Callamard, 2020). Much of the constructivist scholarship, both first- and second-generation, has often probed the life cycle of ‘good’ norms, but this study shows that the emergence of ‘bad’ norms also requires proper study, as the issues they place in the international system through norm contestation or norm regression are of equal importance and could have a severe effect on existing institutions.

Through the use of methods based on Fairclough’s (1989) three-dimensional model of text, discourse practice and social practice, this study leveraged four themes as analytical tools to probe more closely the norm entrepreneurship of the United States during the Obama administration. It shows that it was hallmarked by greater efforts at transparency and served as a clear example of how rhetoric was used in the service of justificatory norm contestations. These justificatory rhetorical contestations of norms used legal-normative reasoning to justify escalations in drone use that placed great pressure on Article 51 of the UN Charter and on existing international human rights and international humanitarian law. We also marshalled Fairclough’s model to probe how cinematographic representations of drones and different

subjectivities placed these issues back in the public mind at the level of popular culture that takes us into the subjectivities of drone pilots and intelligence agents very closely by taking us into the drone cubicle. We saw the first glimpse of the resistance to such norm regressions through the efforts made by documentary filmmakers to speak truth to power by giving the human rights impact of drone usage a public and human face and public voice. This was done by showcasing the actual lived experiences of the victims of drone strikes or their families who spoke out about their deaths. These documentaries very effectively showcased the crisp question at issue in discourses on drone strikes and the use of force drone strikes – namely the effect of the use of targeted killing on the right to life. Having engaged analytically in exploring the different levels at which justificatory norm contestation and norm entrepreneurship played out with respect to policy elites and at the level of popular culture during the Obama era, our study turned its attention to probing the robust defences that were engaged against this by the United Nations itself as an international organisation that has considerable influence in normative debates and international customary law, and through the work of its various Special Rapporteurs on extrajudicial killing and terrorism and human rights respectively. Whilst the analysed documentary films started dealing very effectively and vividly with the impact of drones on the right to life enshrined in public international law, it emerged clearly from the analysis of the chapter probing the rhetoric of the United Nations Special Rapporteurs using Fairclough's model, and the same four thematic issues analysed in the speeches of United States policymakers, that there is a stark contrast between these speeches and the justificatory norm contestation and norm regression the United States sought. This contrasts starkly with the robust defences of existing norms protecting the United Nations Charter and the existing body of international human rights law we see with great consistency in the Special Rapporteur reports. These are robust defences against any violations that can create problematic 'bad' new precedents or that may threaten to become bad new norms.

At the time of writing the conclusion of this dissertation, United Nations Special Rapporteur on extrajudicial killing, Agnes Callamard, had just released her final report on the drone strike against Iranian General Qasem Soleimani in Iraq in early 2020. Her report brings the inherent normative contestations analysed in this exploratory study strongly to the fore and to the attention of the international community, as state practice amidst silence may create new customary law positions and *jus cogens*. The Callamard (2020) report takes forward the crucial work of the Heyns (2013) report analysed in Chapter 6. The latter prioritised the right to law and complementary application of international human rights law and international humanitarian law. In Callamard's report, she deals crisply with how the Soleimani strike broke new ground in the norm contestations drone strikes have unleashed in the international

community, and how it threatens core tenets of the international security architecture. According to Callamard (2020), this strike marks the start of the ‘second drone age’. It highlights how multiple state and non-state actors have harnessed ever more sophisticated, evolving drone technology that threatens international security and how such a strike profoundly broke new ground. According to Callamard (2020:4), we are witnessing an escalation in the second drone age:

For the first time, in January 2020, a state armed drone targeting a high-level official of a foreign state on the territory of a third-one – a significant development and an escalation.

This exploratory study’s clear finding and assertion that the use of drones represents a core and crucial norm contestation in the 21st century, as strongly evidenced by rhetoric in various semiotic forms, including verbal and visual, threatens core tenets of international peace and security and international human rights dispensations, is being borne out by the latest report of the UN Special Rapporteur on extrajudicial killing. What it also bears out is that the assertions by Fisher *et al.* (2019), that United States Presidential rhetoric has a direct effect on asymmetric political violence, and that Fairclough’s path-breaking work on the link between language and power has a critical methodological contribution to make in demonstrating this. The latter can also be used to build a link between method and theory to link language and power to the life cycles of norms and the work of Finnemore and Sikkink (1998), Stimmer (2019) and Iommi (2020). This is so because language and power have a direct effect on norm regression, norm entrepreneurship and norm contestations. It also bears out the arguments of Waldman (2017), who has argued that modern American military practice could be counterproductive and render the United States itself, and the entire edifice of the international system, more vulnerable.

Schwarz (2015) has aptly argued that the pace of the evolution of modern military technology poses profound challenges to our cognitive human reasoning abilities and our overall scope as the human species to adequately assess the ethical implications of their deployment and use. This is naturally a challenge that multiplies when we consider the emergence of lethal autonomous weapon systems (LAWs). Her work reminds us that, as we have seen in our analysis in chapters 4 and 6 of this study, discourse effects that cloak the norm contestations present in drone strikes in medical discourses of ‘surgery’ obscure the fact that such discourses have deep roots embedded in a deeper Foucauldian “regime of techno biopolitical expertise” that collapses boundaries between technology and practices as a biopolitical necessity (Schwarz, 2015:1), as this study has alluded to in previous chapters. Schwarz (2015:1) argues that such practices are sanitised and sanctified: “... the practice of targeted

killing is adiaphorized” (or in more colloquial parlance, sanctified and sanitised). As we have seen in the analysis in the various chapters of this study, her assertion that the images used and discourses deployed about drone strikes in the global body politic turn them into a bizarre kind of medicine prescribed by technocrats who seek to stem political cancers and disease and illness. This moves ethical discourses out of our reach at the very moment when the normative questions at stake, and their effect on international human rights protections, ought to move these questions clearly into our grasp through democratic representative politics and democratic practices that favour accountability. In this sense, therefore, not merely ethics, but the core lifeblood of democratic practices and the tenets of civil-military relations that inform Clausewitzian notions of war, are compromised by new technological killing machines and the policies that guide their use.

This study has set as one of its core research objectives to look analytically at the role played by norm entrepreneurs such as the Presidency in the United States and the responses to this by key international organisations such as the United Nations in different roles in driving current global drone discourses and in setting new policy regimes for drone use and/or drone regulation as norm contestations intensify. What we have shown through a carefully crafted critical discourse analysis (CDA) of drone discourses analysing key policy speeches on drones during the Obama administration and key reports of various UN Special Rapporteurs is that drone discourses have evolved, as they are part and parcel of profound deeper norm contestations of the use of force. They have changed from being embedded in the narrative strand of ‘good’ drones and ‘bad’ drones used for targeted killing (a highly controversial counterterrorism policy) to a narrative strand of ‘good’ drones used by humanitarians in the 21st century and by digital humanitarians. This strand is being carefully crafted and itself will require close future study and in-depth scrutiny, as it is an important evolution in drone discourses, which are morphing away from the normative and human rights challenges associated with targeted killing.

Studying the use of drones through the U.S. Presidency’s norm-setting power, we can identify a few crucial answers to some of the ancillary research questions posed in the introduction of this study. Firstly, the U.S. Presidency has a uniquely strong discretionary role over foreign policy in wartime. This uniquely strong role was triggered and strengthened when the United States Congress passed the AUMF resolution in the aftermath of the tragic 9/11 terror attacks, which saw the U.S. invoke new doctrines of preventive self-defence in the global use of force discourses that challenge Article 51 of the United Nations Charter. This new, United States-driven and contested norm entrepreneurship of preventive self-defence then led to robust actions and wars in Afghanistan and Iraq and the arming of drones, which would move from being tools of surveillance to signals of death in the sky in areas that were not ‘hot battlefields’.

A targeted killing decapitation strategy aimed at Al-Qaeda, the Taliban and associated forces followed and saw drone strikes expand to countries such as Pakistan, Yemen and Somalia. These new strategies and operational tactics, which straddle the Bush, Obama and now Trump years, saw a new world of technologically advanced weapon systems (including armed drones) emerge, along with the conducting of covert wars. The use of special forces became a new way of waging war, for which the road was paved by the emergence of the revolution in military affairs (RMA) and the network-centric warfare (NCW) paradigms in the United States military establishment. Given that many of these largely executive-level powers were exercised from within the Presidency under its extensive executive war authority, we see strong evidence of Congressional acquiescence with these policies and an active effort by the Obama White House, due to civil society pressure domestically as well as pressures brought to bear by global civil society, to bring transparency to drone usage and to what became referred to as 'Obama's drone wars'. The role played by transnational feminist civil society organisations in flagging drones and the emergence of lethal autonomous weapons in the international community through the work of CODEPINK and the Campaign to Stop Killer Robots is both noteworthy, and this was analysed.

The dominance of the United States as a prominent actor, norm entrepreneur and norm setter and as a key United Nations member state in setting new norms in play in the global community discourse space, which includes norms of preventive self-defence, covert war and lethal drone strikes, started a clear and growing set of debates under the shadow of the 'war on terror' ideational frame that dominated the first post-9/11 drone era. As the study has analysed, we see growing pressure from investigative journalists and civil society, as well as the United Nations through its use of reports of Special Rapporteurs on human rights and counterterrorism and summary execution (targeted killing) respectively, to challenge some of these new and contested 'norms' and rhetorical justificatory norm contestations. This was done by focusing attention on the use of armed drones for targeted killing in areas outside of what can be regarded as 'hot battlefields', such as Afghanistan and Iraq, and by probing the controversial use of armed drones in Somalia, Yemen, Pakistan and elsewhere. We clearly saw from the two chapters that delineate the contestations of this study, Chapters 4 and Chapter 6, how legalistically framed and phrased these drone discourses became, especially from 2010 to 2013. At this time, pressure on lifting the veil of secrecy regarding drone use in covert wars, global intelligence operations and targeted killing became crucial to the transparency, minimal as it was, that emerged during the Obama years and that this study explores and leverages analytically. We see a clear contrast in the use of language, metaphor and rhetoric between the speeches of Obama himself and his key officials regarding drones and the use of language in Special Rapporteur reports. This is a noteworthy contribution,

where the norm contestation can be seen clearly in the discursive practices adopted. The Obama administration's speech acts, which are steeped in 'us/them' relational rhetoric, evoke emotions about 9/11 through the use of imagery and, meticulously and systematically, seek to put forward a legal basis and moral and ethical justifications for lethal drone strikes. The speeches use robust argumentative and persuasive strategies and language aimed at swaying elite opinion and global elite opinion on the use of armed drones and lethal targeted killing operations (whether conducted by the Pentagon or CIA). We analysed a concerted legitimisation strategy deployed to portray drone strikes as legal, just and morally defensible and, to some speakers, even wise. This clear legitimisation strategy was used as part of the justificatory norm contestations of the use of force and the pressure it places on Article 51 of the United Nations Charter, on international human rights law (IHRL) and on international humanitarian law (IHL).

This approach in the speeches analysed in Chapter 4 contrasts starkly with the less emotive and rhetoric-based texts of the United Nations Special Rapporteur reports of Alston, Emmerson and Heyns analysed in Chapter 6. These are far more measured, free of 'us/them' relational rhetoric flourishes, and more focused on unpacking the clear frameworks of international law, international human rights law, international humanitarian law and the laws of armed conflict provisions as they relate to the use of armed drones in areas that are not armed conflict areas. These are clear examples of resisting the regression of norms that United States justificatory contestations seek to achieve.

What emerges clearly from this exploratory study and its CDA of both the political speeches and the United Nations Special Rapporteur reports (subjected to Fairclough-inspired three-dimensional analysis guided by a set of four analytical themes), is the extent to which drone discourses are tied up with the 'war on terror' ideational frame and counterterrorism policies and strategies. Perhaps most importantly of all, we see clear evidence of norm contestation that laid bare even the emergence of a new norm of self-defence and the prospective cascading of a new norm of preventive self-defence in the use-of-force arena. This is clearly a core issue at stake and emerges from a focus on rhetorical legitimisation strategies aimed at normalising drone strikes. This will require increasingly focused research, as more and more UN Special Rapporteurs try to grapple with and respond to this fact amidst great silence amongst member states of the United Nations about these far-ranging changes that can emerge from the pressure on internalised and institutionalised norms. The more one probes and peels back the layers of argument and text in the political speeches and Special Rapporteur reports, the more one starts clearly seeing a pivotal argument on the use of force. There is growing disagreement between member states of the United Nations on how to deal with preventive self-defence in the absence of either a clear and transparent conversation

about this emerging, if not cascading (through state practice), new norm beyond the UN Charter's provisions. One also starts to see how the extent to which the controversies about 'Obama's drone wars' or the use of lethal force with UAVs are largely a proxy for a much deeper discourse, beyond drone discourses of 'bad' and 'good' drone narrative strands on the *ius ad bellum* and just war tradition of the 21st century. This is also borne out by the latest UN Special Rapporteur report of Agnes Challamar (2020), published at the time of writing. This growing norm contestation and emerging state practice lies at the very heart of ever-growing complexities, regardless of whether the weapon system at issue is a nuclear one, a drone, a swarm of drones or a lethal autonomous weapons system (LAWs). It is a norm contestation that was already clear within the United States system itself at the very start of the Iraq war, and within the United Nations more broadly – divided as it was at that time already. It is growing in importance today in a much more unstable geopolitical world, with new and growing disarmament challenges across a host of weapons systems, both old (such as nuclear weapons and landmines) and new (such as drones and lethal autonomous weapons systems) and future prospects of robotic 'hot' wars.

What this analysis of drone discourses reveals is that these tensions remain and are growing. The United States' use of drones shows a very hegemonic conception of security, without much regard for what the consequences may be for international peace and security flowing from new precedents for the use of force and armed drone strikes. We see a deeper and more nuanced sensitivity to such far-ranging change during the last year of the Obama administration. New Executive Orders, since revoked by President Trump, sought to bring transparency to civilian victims of and the effects of lethal drone strikes. The Presidential Policy Guidelines analysed sought to make clear the processes that lead to targeted killing decisions and authorisations by the President himself. The United States State Department issued a Joint Political Declaration on export controls on armed drones, signed by 53 states, as a counter to drone proliferation concerns that grew both inside the United States and also more globally. All these steps have come to a standstill and new terrain was carved out with the drone strike on Iranian General Qasem Soleimani in early 2020 by the Trump administration. The change in Presidency of the United States therefore saw many of these initiatives undone.

In the multimodal CDA component and analysis of the visual rhetoric on drones in films and documentaries on drones, the study has shown how the world as an audience is brought into the elite conversation about drones and into the highly legalistic and moral quagmire of targeted killing. This is achieved on screen through vivid narratives that are laden with subjectivities from the perspectives of lawyers, military commanders, drone pilots, drone strike victims and their families left behind, all of which attest to the corrosive consequences of secretive covert war. Some of these fiction films, in some cases produced with the active co-

operation of the security establishment in the plot lines and the representations on screen that capture specific subjectivities, replicate the same ‘us/them’ relational polarisation in visual form that we saw in the speech acts. These visual relational representations and emotive and evocative post-9/11 frames of reference and ideation present in the films map onto the elite-directed speeches quite snugly, as the analysis has shown. This is particularly true for the fictional films. As far as the complementarity with UN Special Rapporteur reports go, it is also true for the documentaries that ‘speak truth to power’ in the representation of the perspectives of different drone victims that convey other subjectivities on screen. Many of the fictional films transport the audience, as direct participants through the weaponised ‘drone view’, into the drone operations base at Creech Air Force Base in Nevada and into the field in Afghanistan, Pakistan, Yemen and Somalia, as well as further afield. As the analysis in Chapter 5 has shown, this carries many complications, as audiences effectively become party to targeted killing through the drone strikes captured on screen, arguably turning audiences from passive observers to active collaborators in a new form of war as subjectivities become entwined.

This study has shown the significance and profound complexity of the United Nations’ role as a norm regression resister on drones, drone usage and drone discourses and narrative strands more generally. It has sought to rein in the worst excesses of ‘bad’ drones that breach international law and sought to promote the possible use of ‘good’ drones to protect civilian life in complex peace operations. It has used Special Rapporteur mechanisms and their reports to show, expose and address the worst state excesses on use of force, UN Charter norm challenges and breaches of international law (including international human rights and international humanitarian law) in direct confrontation to the norm entrepreneurship and justificatory norm contestations of powerful states. It has sought to uphold key tenets of the just war tradition (particularly *ius ad bellum* and *ius in bello* provisions) as far as lethal drone strikes by key member states are concerned that need to comply with this tradition and sought to highlight any erosions or deviations in its UN Special Rapporteur reports.

The study shows how the United Nations, as a crucial international organisation norm setter and norm protector, has furthermore used its considerable power to call, through UNIDO and the Secretary-General himself, for a new disarmament initiative and controls on armed drones. It has consistently urged transparency on their use in the international community and cautioned against their proliferation. The Secretary-General, as norm-setter-in-chief of the UN, has used disarmament platforms and World War I commemorative platforms in 2018 to call for a clear ban on lethal autonomous weapon systems (which would by implication also embrace drone swarms) as a principled stance. This is an effort in which the United Nations SG persists.

The United Nations has had to act as a discourse arena of sorts where the narrative strands of 'bad' and 'good' drones have played out and engaged in micro and macro-level norm contestations often as a proxy for the more deeply present undertow of tensions on the use of force in the UN Charter in the 21st century in a geostrategic ally more fragile world where constant contestation on Article 51 of the UN Charter appears to be a 'new normal' not properly addressed by member states of the United Nations. What this study has only hinted at, and what most certainly could be a highly productive avenue for future exploratory research, whether of a CDA analysis kind or using different international relations and/or public policy theories and methods, would be an analysis of different interest groups (drone lobbies and civil society activists with a human rights focus) that drive drone discourses and its 'bad' and 'good' drone narrative strands evident in this exploratory study. An analysis of how civil society, and the one hand, and the highly organised and active commercial private sector and defence-ICT-security nexus drone lobby have played active roles in shaping and driving narratives geared to influence the actions of policy players and norm setters at the nation state, regional and national level, will be crucial. This will aid a deeper understanding of the policy-making dynamics that lie buried underneath the discourse manifestations and language usage of drone discourses. As the extensive use of drones morphs to law enforcement and migration control such an understanding will become ever-more important. These areas of public policy and future drone use will add to pressures on existing human rights norms in the international community. Given that drone wars are the probable 'hot' wars of the future, as we have seen recently in Iran, Saudi Arabia and Iraq, to mention some examples from 2019 and 2020, such as understanding becomes, equally a geostrategic focus and relevant research imperative. In this regard this exploratory study has only scratched the surface by looking at drone lobbies and feminist civil society organisations as it did in Chapter eight. Future research could embrace a deeper study of civil society specifically using discourse coding and mapping this onto an analysis of civil society and drone lobby actions. This is crucial to grappling with future drone discourses and their evolution and highly recommended as an area of future research and deeper understanding of commercial dynamics shaping public policy and international norms spaces. It is clearly noteworthy that such shifts are occurring and are being driven through at the executive level of government with extraordinarily little legislative input or proper democratic oversight and accountability. What is clearly striking in an exploratory study of this nature, is the near complete silence on drones in global Parliaments and legislative structures more generally. Whilst the EU Parliament is an exception to this rule having made some clear statements on the use of armed drones specifically, it is a remarkable phenomenon to see such legislative silence. Such a silence about profoundly transformative technology that by its very existence alters and challenges a host of internalised and institutionalised norms in the halls where the representatives of people

who will all be deeply affected by drones and the rise of killer robots is one of the important silences which speak as CDA reminds us.

Human rights are being, and will fundamentally be, impacted by drones – whether through targeted killing, law enforcement or migration control. This rightly requires considerable attention from legislative bodies and attention of the deeply popularly deliberative kind. This exploratory study attests to this absence. The prevailing and deafening legislative sector silence is an important one and requires attention also in research terms to establish definitive and well-researched reasons for it. Perhaps it is because these details are often hidden and not shared due to the covert use of drones or because they are shared in ‘off-the-record’ or ‘in camera’ sessions where voters must take deliberations on faith without suspicions of corporate capture. Perhaps it is because decision-making on drones and their deployment in varied government functional areas are being carefully pursued at the executive level of governance globally where the drone lobby cannot be too clearly seen in order to get as much done before the democratic deficit of some decision-making becomes far too visible and objectionable.

Whatever the reason, this silence is another area worthy of a concerted critical study and analysis and to peel back layers of ideology and power and specifically any hegemonic notions of power. Fairclough’s framework and other mixed methods could be useful to assessing whether this silence speaks to the power of a drone lobby and global arms industry gearing itself for future ‘hot’ drone wars. This could require extensive mapping of global civil society, state and non-state actors in the drone space and extensive coding of their discursive practices. Another highly productive area of future study would therefore be to look expressly at executive-legislative interactions on drones and defence procurement and drone exports or the procurement of drones for military efforts, law enforcement and border control and to map these globally. Whilst access to information may prove to be a research hurdle it ought to still be pursued with suitable methods.

What this exploratory study has been able to do is show how actions by investigative journalists, civil society organisations and thoughtful policy players at national, regional and multilateral level, in national administrative polities (notably the Obama administration) and in the corridors of various structures of the United Nations with its experts and Special rapporteurs all played a role in bringing a modicum of greater transparency to covert drone wars. Such efforts made an exploratory study of this nature possible at all despite the clear and inherent limitations in accessing full empirical and quantifiably verified information on drone proliferation and drone strike and their civilian impact. What it also shows is the need for much greater clarity and transparency and greater collaboration across disciplinary boundaries by academics, civil society players, lobbyists and multilateral and regional bodies

to ensure a richly textured drone discourse and policy process regarding drones and UAV usage that will allow their productive leveraging for the benefit of humanity and to transcend the 'bad' and 'good' drone binary we see in current discourses on drones. The picture is a complex one that will throw up a host of norm contestations akin to the ones so prevalent in the context of expansive use of force interpretations and the ever-evolving use of targeted killing practices..

If such deeper research to inform accountability work is not done, we will merely associate drones with incidents of targeted killing and a sprinkling of humanitarian use. If this is not done, we will come to associate drones with new war and drone wars as we saw with Iran and Saudi Arabia in 2019 and with the United States and Iran in 2020. If this research agenda is not pursued, we will see the world of civil aviation ill-prepared for drones on runways that disrupt global travel or could be a new terrorism menace in sensitive infrastructure. We simply have to have a far deeper and more nuanced and complex engagement with the modalities that shape the presence of drones in our lives in the 21st century. We must do so as academics grappling with what they may signify in our various disciplines. We must also do so as policy-engaged scholars. If this is not done we will not properly be able to weigh the risks drones pose with the benefits they may bring in a complex policy calculus that has always had to track and keep pace with technology that moves from the military to the civilian- use arena. Given the scale to which this new technology will alter societies and our global body politic, responding to its evolution will require far more research by political scientists and sociologists than has currently been the case to respond to these profound new challenges these evolutions that can move us ever-closer to a post-human future will require of us all.

As an important norm setter the UN Secretary-General has said, we need a far greater understanding of how nations will use armed drones and the risks this will pose particularly in a world of increasingly contested and new cascading norms on the use of force under the UN Charter and, arguably, beyond it. This in itself is a clarion call for international relations scholars and constructivists and feminists specifically. As we have gleaned from the conclusions of this exploratory study, this must mean that only concerted and considered global military disarmament regimes will aid the proper differentiation between armed and unarmed drones and can properly address this in the context of on-going norm contestation on global use of force provisions. It seems clear that the emergence of new norms on the use of force and varied state practice on this score will be an important undercurrent of armed drone debates – another rich vein of research as the geostrategic space evolves, becomes more susceptible to great power conflict once more and raises new risks and complexities in which new weapons technologies will only be one part of the challenge amidst the risk of new geopolitical 'hot' wars.

It is important to note the Saudi Arabia incident of 2019 very briefly as many predict it to be a curtain raiser of 'drone' wars. On September 2019 10 drones – launched by the Houthis movement in Yemen -armed with long-range weapons, widely believed to have been cruise missiles hit Saudi oil fields marking drones as a weapon of choice in the Middle East (Warrell, England and Al Omran (2018). Indeed, what the Saudi drone attacks did was to highlight the Middle East's already existing drone war and the combined use of drones and long-range weapons. According to Bilal Y. Saab, the Director of Defense and security at the Middle East Institute in Washington, the Saudi drone attacks were: "The advent of 21st Century drone warfare in the Middle East...In this race, the advantage is to the adversary, because our response are not efficient". (Warrell, England and Al Omran).

With Israel claiming it has shot down an explosives-laden drone over the Sea of Galilee and Iran and the United States nearly engaged in a war due to the downing of a drone weeks before the Saudi incident it seems clear that drones have the potential to exacerbate existing geopolitical tensions and that countries will now start to invest more heavily in anti-drone defence infrastructure for critical infrastructure whether airport, oil fields or energy grids. This is a completely new challenge and one the world needs to debate far more beyond the binary discourses of 'bad' and 'good' drones as weapons controls and disarmament requires a near-unprecedented level of political will in fraught times.

At the time of writing the Trump administration's drone strike on Iranian General Qasem Soleimani also broke new ground in the norm contestation stakes. The expansive use of force approach that has informed the United States' norm entrepreneurship on drone strikes was used to strike a military officer of a foreign state (Iran) on the sovereign territory of a third state (Iraq). This has set in motion an extraordinarily complex new precedent that has been condemned expressly by the United Nations Special rapporteur on extrajudicial killing. In the light of these dramatic developments between the United States and Iran, the UN Special Rapporteur makes poignant remarks about the 'sound of silence' emanating from most UN member states and the risks this poses to the international community and to peace and security. Whilst such silences may not represent acquiescence, they do pose risks as state practice can lead to new *Jus cogens* norms emerging out of the norm contestations these events represent. The report also raises disquiet about the absence of UN Security Council attention being paid to UN Article 51 reports that are required under Article 51 of the UN Charter when states do resort to self defence measures. Such lack of action on Article 51 reports and broad self-defence claims are a grave risk to the very future of the international system. The UN Special Rapporteur is right to raise alarm that member states' silences about illegitimate self-defence claims is singularly undesirable and unsatisfactory and could very well signal the emergence of a new 'bad' norm. This view echoes this exploratory study's

concerning conclusions about norm contestation in the absence of proper robust public debate. The Special Rapporteur specifically highlights this deafening silence as a core concern. According to the Challamar (2020: 219):

To date drones' attack and targeted killings are not the object of robust international debates and reviews. The Security Council is missing in action; the international community, willingly or not, stands largely silent. That is not acceptable.

What we can see from this explanatory study on drone discourses is that the global conversation about drones will inevitably become ever more visible and ever more global. It will of necessity require far greater research from academics and transparency and accountability from policymakers adopting drone use and from those selling their drone wares in global markets. Consequently, it will be incumbent on a host of scholars in different disciplines to keep up with these developments, and discourses that indicate the directions of these developments, and for political scientists and sociologists in particular to profoundly interrogate policy decisions that leverage drone technology and how the advent of drones will alter society as we have known it for centuries. These two disciplines have to add their analysis and their voice of research findings to a field highly dominated by legal scholars, philosophers, and military ethicists. This exploratory study hopes to make a small contribution to this new body of necessary work. More scholarship is required to grapple with what the second drone age really represents and what its implications may be for the international system and for its existing norms and processes. At the very least international relations scholars must track the life cycle of norms and show a sensitivity to the emergence of 'bad' norms and how existing norms may regress or be actively contested through rhetorical and other practices.

At the inception of this study we sought to probe at which stage of the norm life cycle on drones and drone use the international community may find itself. The study has leveraged critical discourse analysis or studies to show how the United States as a norm entrepreneur has used its power as a crucial United Nations member state to expand the use of force in Article 51 of the UN Charter and to engage in considerable justificatory norm contestation to sway other United Nations member states to not only go along with its drone use but to internalise such new norms and to institutionalise them within the UN system. The study also shows the considerable efforts undertaken to deter such internalisation of new norms on the use of force and drone strikes. Various players, key amongst them the United Nations and its Special rapporteurs and the international human rights community and feminist transnational civil society organisation worked actively by suppressing such norm regression that could have built scope for such internalisation of new norms on drone usage. By suppressing norm regression that could allow such internalisation and institutionalisation from taking place the

international community was shown the key contours of the dilemmas it faces as technology keeps pushing up against existing law and prevailing norms in areas crucial to human rights.

What has therefore been noteworthy is an understanding that the international community appears to be locked into repetitive cycles of norm contestation (efforts aimed at internalising new norms on drone use through active justificatory norm contestations that are then meticulously blocked by suppression of norm regression).

What is observable at the level of member states, however, is that the international community has not engaged in direct confrontation with the United States and its efforts to create justificatory norm contestation. Instead, many states have engaged in their own processes of drone manufacture and drone proliferation and some are increasingly engaging in similar practices and postures on drone use.

The study points to the grave risk of global acquiescence and silence with norm contestations by powerful states. The last report of the United Nations Special Rapporteur on extrajudicial execution and the Soleimani strike is a clarion call to the international community, as are the exploratory conclusions of this study, pointing to the risks it could face if it simply sleepwalks into internalising new norms on drone usage and broad interpretations of the use of force provisions of Article 51 on self-defence provided for in the UN Charter. It is a clarion call borne out by the analytical findings of this exploratory study on drone norms present in 'bad' and 'good' drone discourses and the clear prevalence of 'bad' drone normative strands on targeted killing and the use of force being on the rise as the strong executive arm of the United States' foreign policy showed itself clearly in early 2020 with the strike on the Iranian General.

Whilst new drone use norms on the use of force for self-defence may not be internalised, as this exploratory study concludes, their continued contestation places pressure on existing norms that is potentially dangerous. So is the absence of clear normative guides on what the international community considers to be appropriate use of force for self-defence drone strikes. This is important as it may ultimately alter the course of global peace and security if 'bad' norms on 'bad' drones are indeed internalised more broadly or, at least, not properly vented and debated mindful of risks and consequences.

In fact, the last word on these profound risks is best left to the work of Brooks (2013) who reflected thoughtfully on how the United States was battling to adapt its legal theories (under the 'war on terror') and its conduct to the myriad of new threats heralded by technology. She cited prospects for a new *jus ad vim* as a theory wedged between war and peace on the use of force in international relations as a possible pathway.

Pointing out that the United States may not be wrong that the use of force provisions in the UN Charter may be inadequate, Brooks (2013: 99) identifies the risks that justificatory norm contestation strategies may pose. According to Brooks (2013:99):

Strong challenges to accepted interpretations of international law might trigger a new round of international lawmaking and the creation of new, rule-of-law-enhancing institutions and processes. But the international order is a fragile one, and when core norms relating to the use of force are in disarray, accountability and predictability are undermined. Ultimately, there is a substantial risk of fragmentation, conflict, and collapse.

The conclusions of this exploratory study shows that the entire international community (its leadership at head of state level and nation states themselves) would be better placed to have this conversation openly, robustly and definitively rather than leaving the precious process of protecting norms that have protected international peace and security to constant justificatory norm contestation pressures and norm regression suppressions that could herald a vicious and never-ending life cycle without clear definitive norm outcomes that can be internalised and institutionalised through international consensus. This is true for the 'bad' drone narrative strand of discourse. But is equally holds for the 'good' drone narrative strand where the global community have to decide definitively, and preferably collectively, whether a broad legitimisation of drones for various uses that embrace humanitarian uses and at the time of writing for pandemic responses such as COVID-19 would be desirable.

Whilst 'humanitarian' drones are already showing some pressures on existing norms, the use of drones for civil responses that embrace medical responses and law enforcement responses, already in evidence in the immediate COVID-19 pandemic context, also points to clear challenges and pressures on existing norms of human rights in particular. Indeed the words of Emery (2016: 164) on 'good' drones appear prescient and relevant in pointing out how the debate about drones has very slowly been shifting from their use for targeted killings to notions of 'humanitarian drones' as he cautions governments on the challenges and pitfalls their humanitarian use may pose. His words are as relevant to pandemic context use of 'good' drones. As he makes clear even in a post-human world the 'human' must never be taken out of the equation as we have already seen with humanitarian drones. According to Emery (2016: 164): *"Ultimately, drones are here to stay; yet the future of the human in 'humanitarian' remains more essential than ever before, as technology can never replace the situational awareness and caring power of humanitarian workers"*.

This exploratory study has shown some of the key challenges that have emerged where the UN itself has opted to use 'good' drones for peacekeeping under often robust mandates. It

seems predictable and clear that as debates on the use of ‘good’ drones grow in a global community grappling with unprecedented challenges of mitigating a global pandemic in a new COVID-19 era that we will see constant new uses of drones, pressures on existing norms and varied rhetorical and visual justificatory strategies play out at various levels of our societies.

It is important that this is studied properly and actively and that the academic community taps into this rich vein for future and deeper research.

But what is the importance of this study? What contribution does it really seek to make and what relevance does its findings have?

This Critical Discourse Analysis of use of force, targeted killing and drones has primarily served as a clarion call to researchers, scholars and policy—makers to show systemic and core path dependencies and policy-continuities across the Bush and Obama and Trump Presidencies in the United States’ counterterrorism context has birthed some problematic human-rights challenging precedents.

It is an important study as it speaks to the implications of having a crucial state, such as the United States, - a critical member of the United Nations – acting as a policy entrepreneur and norm justificatory provocateur in global policies on the use of force leveraging new weapon systems such as drones that can be the curtain-raiser for the use of lethal autonomous weapon systems in the future.

This matters greatly, as does the significant push-back from global human rights organisations and transnational feminist organisations as these global entities have sounded the alarm bells for a global system that may be sleepwalking into entire new modes of warfare that can place the future of the human species at risk. As this study has shown, there is a great opportunity present in global disarmament talks on global revisions of the Convention on Conventional Weapons (CCW) that could properly take cognisance of this dangerous proliferation possibility by pro-actively regulating lethal autonomous weapon systems (LAWS). This could occur before new patterns and modes of warfare become entrenched in the international system by virtue of evolving state practices and policy entrepreneurship by systemically significant states such as the United States and others.

This study also points to the crucial importance of the world reaching such an inflection point as part of global negotiations. At the nation-state level this study has clearly shown that there are political and real-life consequences when there is a disparity between executive and legislative authority in war and peace decisions, where such disparities result in ever-greater concentration of power in the hands of executive authorities. This legislative oversight void is further exacerbated by drone strikes being carried out by private contractors.

The salient comparative politics relevant institutional lesson that emerges from the United States' experience with the surveillance state and targeted killing and 'kill lists' in the hands of the executive authorities is one of a worrying lack of oversight and accountability beyond basic procedural requirements amidst great secrecy.

Taken to scale this is a microcosm of the potential risks that could emerge. Beyond targeted killing practices, it is equally conceivable that surveillance-based new migration systems and law enforcement systems will grow ever more technologically sophisticated leading to growing concentration in the hands of executive authorities over procurement and management of such systems with legislatures having great difficulty to exercise robust oversight for proper accountability. The challenges for oversight and public accountability we saw so clearly in this study in the arena of targeted killing with drone technology will be as present as drones begin to police us, our bodies and bio-politics and our borders.

These are very significant changes as the machine-human 'cyborg-esque' interface will create a new kind of 'species' policing another un-modified set of all-too-human-bodies. This is where we find the clear echo of the cyborg- integrated human-machine interfaces that are about a new species with altered if not AI-enhanced abilities. The question is whether we are moving to such a new species at the machine-human interface and what this may be and what its sociological and political implications will be in the longer term.

In this sense, even the UAV targeted killing operations can be said to represent more than 'manhunts' at the individual level. It represents a type of proxy right to life and targeted killing as a deeper existential question about species survival in a post-human world.

At both a political and sociological level, we have to ask what the deeper impact and the implications would be of such a broad lack of legislative oversight over such dramatic and historically sweeping changes. We have already seen two noticeably clear risks associated with the lack of oversight over targeted killing decisions. Firstly, the secrecy that the drone programme was shrouded in had very dramatic implications for the ability of the broader public and the body politic to have a proper sense of what kinds of steps were being taken and what acts were being committed in their names. Secondly, the manner in which the lines between military and civilian leaders were blurring in the bureaucratised 'kill' decision-matrix meant that the conventions on civil-military relations and accountability to legislative oversight bodies were also blurred. With the rise of the surveillance state it is all too conceivable that similar challenges will arise with executive overreach, potentially in technology (drones in particular) that will be used in policy arenas such as policing and migration control.

This research has spoken to the absolutely crucial role that feminism, feminist theory, and gender analysis, particularly Harraway's work on Cyborgs plays in the context of an analysis

of drones and targeted killing and future prospects of lethal autonomous weapon systems. Through their consistent push-back efforts to stymie norm regression, and by blocking any problematic norm emergence or norm contestation of use of force norms, these global transnational feminist organisations have sought to highlight the critical risks emanating from a human-machine merged new 'cyborg-esque' species that could populate future theatres of war. In doing so, and focusing our attention through their lobby efforts, they have brought these issues into the light of public awareness on a much larger canvass. Doing so has surfaced the more deeply hidden rise of surveillance and the surveillance state and the implications this has and will have for human life and human rights on the edge of the abyss of a post-human world. This is not only true where the apex right to life issue arises with targeted killing where the surveillance state effectively makes 'kill' decisions through targeted killing, but also in new globally pervasive migration control systems and the growth in the security state that has surveillance as its bedrock that may be at the forefront of new modes of urban-based warfare or new modes of policing and law enforcement .

What we see with the rise of the surveillance state (so clearly present in drone discourses) is Foucault's concept of 'governmentality'. In its broadest sense and conception, it looks to the organisational practices through which the 'subjects' or citizens of a state are governed. These practices embrace, amongst others, mentalities, rationalities and techniques. This is where we can see the clear new norm of a 'governmentality' emerge for the 21st century with the rise of the all-pervasive surveillance state. This 'governmentality' is about discipline and punishment that is so clearly at stake in targeted killing already. This study has shown how such notions of Foucauldian 'governmentality' relate to the apex of 'discipline' and 'punishment' where the right to life is extinguished through 'kill' lists that are a core component of drone discourses. Whether we look at this apex of 'discipline' and 'punishment' that lies at the heart of legal debates on the use of force expansions or to drone use for surveillance related to policing or migration control, the notion of 'cyborgs' and the post-human era has profound implications for 'governmentality' and how it relates to the human race in the 21st century.

This is also true for 'good' drones that will be involved in 'governmentality' in arenas of UN peace operations that seek to implement the Responsibility to Protect doctrine where bad behaviour by state actors or non-state actors will be 'punished' by 'good' drones that will ensure civilian populations are protected against violations of their rights as such violations will now be more visible to surveillance drones in the field.

There can be little doubt that drones and drone proliferation and the concomitant and ceaseless surveillance they do bring will dramatically increase global instability. In the absence

of clear guidelines on regulation and proliferation and expansive state practice on the use of force with new weapons technology this will carry the probability that geostrategic blowback of proliferation and use will be practically inevitable. The expansive justificatory norm contestation the United States has engaged in thus far could and will be emulated by other states that will claim the right to use the very same tactics.

This is inevitable and will place its own pressures on already strained systems of multilateral governance. When this is coupled with expanded and expansive executive power concentration at the nation-state level (with reduced legislative oversight) and a rise in a more authoritarian mode of politics the risks grow exponentially.

Postscript

The “Good” Drone and COVID-19 Pandemic Responses

At the time of writing the global COVID-19 pandemic has produced a flurry of new rhetorical and lobbying activity to market the ‘good’ drone narrative strand of drone discourses. The COVID-19 global pandemic has accelerated debates on a host of questions beyond the immediate urgency and contingency of human survival. It has reached into the heart of what has been branded the fourth industrial revolution (4IR) which potentially serves as a marker for the posthuman future many theorists have highlighted. From the focus on social distancing, policed in many nations by speaking drones urging people to remain at home, to remote working to a new emphasis on local manufacturing and delivery systems, not a single sector in a single economy will remain untouched by these changes.

The so-called ‘good’ drones are being used for delivery of medical supplies to tracking COVID-19 quarantine efficacy through area mapping to ensuring that drones are adopted for law enforcement which has been an accelerating phenomenon globally during this period. One of the most interesting development has been to witness Zipline, a medical drone entity, move from its initial launch in Rwanda to the United States as an effective medical services provider during COVID-19. This could be a precursor to how the African continent may leverage the so-called fourth industrial revolution for its development but it raises many issues and questions about the ‘good’ drone narrative which is the newest discourse strand on drones that is only slowly evolving in order to rival the ‘bad’ drone narrative that became so prevalent during the targeted killing era when it became the most visible element of counterterrorism strategies globally. Drones are also increasingly being used for border control and for policing migration. This will undoubtedly lead to similar pressures on global human rights norms that we have traversed in this study as the ‘good’ drone narrative starts to push against existing, internalised and institutionalised norms exactly as the ‘bad’ drone narrative strand did with targeted killing.

This is particularly true with respect to the future and current use of drones and drone technology globally and in Africa. Africa hosted its first Africa Drone Forum in Rwanda in February 2020 drawing on earlier work of the World Economic Forum, World Bank and Zipline largely around issues related to 4IR. Led by initiatives in Rwanda and Uganda, Africa is poised to play a role in future drone dynamics in the use and manufacture of drones during and in the aftermath of the COVID-19 pandemic. With drones in Limpopo province using the Mayor's voice urging social distancing in local languages, South Africa is potentially poised to also reap a potential drone dividend. As e-commerce and fintech alters markets, drones too will alter markets, logistics and security during and in the aftermath of this pandemic. How the continent

leverages these new economy dynamics for growth and development in difficult global recession markets will be a key building block of post-COVID-19 economic recovery.

Drones will be crucial delivery vehicles in the future, as Amazon and Alphabet's Wing are demonstrating. In this regard, Africa also will not remain behind and will be a key market and potential partner. Having been one of the key target areas for the first wave of the 'good' drone discourse through the deployment of drones in peacekeeping and peace-enforcement missions on the continent, Africa may yet be the very testing ground for the 'good' drone narrative strand carefully emerging in a post-COVID-19 world.

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